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COVID-19; GOVERNMENTAL TRANSPARENCY AND THE PUBLIC HEALTH AGENCY OF SWEDEN

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Abstract

Swedish administrative law includes great possibilities to transparency for the general public. According to The Principle of Public Access to Information all completed documents at a government agency can by default be accessed by the public if not the agency can motivate legal secrecy. Their motives for secrecy must have a foundation in the Public Access and Secrecy Act. This legal tradition is very old and was introduced as early as 1766. During the COVID-19 pandemic (2020 and forwards) the work at governmental agencies have not been easy. Offices have been closed temporarily and contact with the public have been limited because of restrictions. The workplace has been moved from the traditional office space to digital environments as employees have been forced to work from home. The Public Health Agency, who have the main responsible to communicate with the public regarding matters of the pandemic, have had many requests for information during this time. In this paper reactions from media and the public regarding The Public Health Agency’s information management is investigated.

Keywords: Public Access, SARS-CoV2, COVID-19, Sweden, Media, Transparency,

INTRODUCTION

The Swedish administrative laws includes great possibilities to transparency for the general public. According to The Principle of Public Access to Information all completed documents at a government agency can by default be accessed by the public, if not the agency can motivate legal secrecy. Their motives for secrecy must have a foundation in the Public Access and Secrecy Act (Swedish Government
This legal tradition is very old and was introduced as early as 1766 (Gränsström et al 1992). During the COVID-19 pandemic (2020 and forwards) the work at governmental agencies has not been easy. Offices have been closed temporarily and contact with the public have been limited because of restrictions. The workplace has been moved from the traditional office space to digital environments as employees have been forced to work from home. The Public Health Agency, who have the main responsibility to communicate with the public regarding matters of the pandemic, have had many requests for information during this time. To facilitate communications the Public Health Agency has held regular press conferences, but this was not enough to hinder misunderstandings and conspiracy theories. After the Swine-flue pandemic of 2009 the Swedish Civil Contingencies Service published a report concerning communication between the authorities and the media – and how the measures taken were treated in the public opinion. In the report the Civil Contingencies Service claims that the public was very satisfied with how the authorities handled the pandemic, but less satisfied with how the pandemic were reported in the media (Swedish Civil Contingencies Service 2009, p. 113ff)

During the COVID-19 there was also a conflict in media regarding e-mails sent from employees at the Public Health Agencies to certain organizations in which different opinions than stated at the press conferences were expressed. These e-mails were retrieved by journalists using the principle of public access to information. There was also a discussion about "Hate-mail" (Threatening e-mails sent by the public) to The Swedish Public Health Authority and a collection of these e-mails was published by the journalist Ola Wong. We will return to both these discussions later on.

What can an investigation on Public Administration reveal to us? Bruno Latour conducted his ethnographic investigation of the Conseil d'État between 1994 and 1999 and published his findings in The Making of Law –An Ethnography of the Conseil d’Etat in 2002. According to Latour we often base our understanding of government work in the decisions they make and print on paper (or today, publish on their website). But this is just the end of a process, and gives us no further insight in how the actual work is done (Latour 2009, p. 71). Research of the actual administrative processes, and the reactions to them, could teach us much more than just an official document with a governmental decision. It gives us the possibility to gaze into the black box of governmental work and hopefully a possibility to understand what really happens within administrative processes. This knowledge is not just important to researchers, but also key knowledge to archivists. In this paper I will conduct an investigation that puts focus on the

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complete administrative process regarding Access of Public Information at the Swedish Public Health Authority. I am hopeful that this will give us the possibility to shed some light on the processes within the black box of government administration.

**RESEARCH QUESTIONS**

The investigation is performed through the answering of three research questions.

**RQ1** - How was the Principle of Public Access discussed by the media?

**RQ2** - How was the Principle of Public Access used by the public to request for documents created during different periods of the COVID-19 pandemic?

**RQ3** – What are the administrative process initiated when a request for Access of Public Information was made to the Swedish Public Health Authority during the COVID-19 pandemic?

Data relating to the first research question regarding on how the principle of public access was discussed in the media was gathered through internet searches. The possibility to perform a site-search (site:www.website.com keywords) in Google was used on a number of larger nationwide newspapers and radio stations. Complementary to the site-search, more general searches were conducted regarding the Swedish Public Health Authority and Public Access, and searches using the news sites internal search engines. The goal was to find a wide range of discussions regarding the subject in media. Blogs from independent journalists will be included in the material, but not podcasts and vlogs due to time limits.

To gather material regarding the second research question required more work. Using a timeline application available on the Public Health Authority’s website, a number of hotspots, dates when certain
events (lockdowns, heavy rise in infections etcetera) could have increase the public interest, was identified. Complementary, dates surrounding media focus regarding public access and the Public Health Authority was used. These dates were chosen using the articles found relating the first research question. These dates were used to guide my requests to the Public Health Authority to access their public registers (diarium) over incoming correspondence. A more thoroughly research could have been done by accessing the public registers for every date during the pandemic, but this was not possible due to time limits.

The theoretical framework will be used simultaneously as a beacon searching for parts of the material connected to transparency and democracy, and as a net connecting different parts of the material. It will be used in a way close to Max Weber’s idea of “Ideal types” - descriptions of phenomenon that is used to sharpen the analysis of empirical material by creating something to compare the material with (Steiner 2009, p. 207).

Data for the first question was collected through an investigation of articles written during the pandemic and in which transparency is discussed. The second question by using the Principle of Public Access to access the registers at the Swedish Public Health Agency and retrieve the requests done by the public. To analyze the gathered material theories constructed by Chantal Mouffe (Mouffe 1999) and Jürgen Habermas (Habermas 2001) will be used. They will supply a theoretical framework that will be used as inputs to analyze aspects of democracy and transparency. The questions will be answered through the parts of the article dedicated to investigation and analysis. In the end of the article I will discuss possible solutions for problems encountered in the material.

THEORETICAL FRAMEWORK

In this part of the paper the theories contained in Chantal Mouffe’s text Deliberative Democracy or Agonistic Pluralism? and Jürgen Habermas Strukturwandel der Öffentlichkeit - Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft are explained and discussed. The goal is to explain a theoretical
framework that enables an analysis of the discussion in the media, and also to support the analysis of the requests of public information performed by the public to the Swedish Public Health agency.

Mouffe’s article was published in 1999 and aimed to explain why there was a growing disaffection with democratic institutions in western societies. According to Mouffe, the disbelief in democratic institutions are difficult to explain with contemporary political theory, rooted as it is in a framework consisting of individualism, universalism and rationalism (Mouffe 1999, p. 745). Mouffe buildt her theory on influx from Jürgen Habermas and Seyla Benhabib. In Mouffes interpretation of Benhabib one of the problems with the contemporary political climate is to combine references to a common good with the free will of the independent individuals (Mouffe 1999, p. 746). In the article we are floating in a sea of political theory without any examples to hold on to, but one example that fits pretty well is the debate around mandatory COVID19-vaccines where the complexity of this conflict between common good and an independent individual is very clear. Mouffes critique of “deliberative democracy”, the discourse of political theory that Habermas, Benhabib and many other researchers are part of is based on a conflict regarding the philosophy of human communication. It is a conflict, according to Mouffe, that can be explained by two concepts we find in the texts of the philosopher Ludwig Wittgenstein. *Einverstand* – (agreement) which is a product of reason. It is the result of a discussion where the rules of logic and rationality has been used and the “winner” is the one which arguments are the best according to logic and rationality. The other concept is *Einstimmung* (attunement) which also is a result of a discussion, but not connected to rationality in the same way. It is a more advanced agreement, a fusion of voices made possibility by a common form of life (Mouffe 1999, p. 749). The political theorists searches after *Einverstand*, but the people in general might deliver *Einstimmung*.

Jürgen Habermas was mentioned in the description of Mouffes critique above. But what I will use from his bibliography is not a text connected to the discourse of deliberative democracy. Instead it is his book *Strukturwandel der Öffentlichkeit* which focuses on the changes in societies that were needed for the contemporary administrative landscape to appear. Habermas describes a development in society where administration and logistics goes from unregulated and sporadic to regulated and regular. This is something that happens relatively late in history – in the west mostly during the 19th century (Habermas
I want to situate the kind of administration I have described above, Public access and Governmental transparency, to this process. It is at least one of the results of this process. The german word Habermas uses to describe the state of society (der Öffentlichkeit) is Permanenz – Permanence (Habermas 2001, p. 71). Institutions in contemporary western society are in general permanent in such way that power is valid over a longer time period. This makes it possible to develop the administration over a long period of time. As an example - The predecessors of the Swedish Public Health Authority goes back to 1909 when a bacteriological institute was created which had similar tasks (NAD 2022).

**FINDINGS**

The investigation is divided into two parts. First the discussion in the media will be taken into account and the media material will be investigated in chronological order. The second part is regarding the use of public access. This part starts with a description of the process used by the Public Health Authority to serve requested information to the public, and to answer questions in general from the public, the government and other governmental agencies.

The discussion in the media

The findings of this study indicates that it took about six months into the pandemic, in the middle of 2020, to shift some of the media focus from the pandemic itself, to the administrative procedures surrounding the measures taken to control it. The Swedish National Radio reported on the first of June 2020 of change on routines in the Public Health Agency had led to that minutes from meetings between regional administrative bodies for disease control had been declared as being non-public and kept under secrecy. The journalists were concerned because this makes it impossible to compare the actual situation (as stated by the regions) with what the government declares as the official situation (SR 2020). The news were also picked up by magazins such as “Sjukhusläkaren”: “The Hospital Physician” (Sjukhusläkaren 2020). The journalist Patrik Lundberg from the nationwide evening newspaper “Expressen” (“The Express”) commented on this episode and connected it to other organizations where there had been similar development regarding loss of openness. He argued that the loss of openness,
especially regarding the Public Health Agency, is very unfortunate – the society loses openness when it actually is needing it the most (Lundberg 2020).

During 2020 the Public Health Agency had a lot of work on their lot. To manage the workload they employed consultants for general or specific tasks. One of these consultants was Johan Giesecke, the retired former director of the agency. The former director has, in his new role, been described as an Éminence grise, and an actual puller of the strings in the background. The journalist Emanuel Karlsten has done a major work examining Giesecke’s e-mail correspondence during his period as an consultant. The material Karlsten got access to, using the principle of public access, was a series of e-mails sent and received from Giesecke’s e-mail accounts at the Public Health Agency and at Karolinska Institute, which is the university where Giesecke is a senior professor. The e-mails were sent between Giesecke in his two positions and different key persons connected to the Swedish and Norwegian disease control. The material seems to give us a quite good view of what happened behind the scenes including Giesecke apologies during periods where the debate was heated. There are some examples that Karlsten identifies as possible conflict of interest and some e-mails of more social character (Karlsten 2020). A fuller discussion on this aspect is presented in the analysis.

Later during 2020 e-mails received and sent by the Public Health Agency would be in focus again. This time it was the executive director of the agency, Anders Tegnell, who was accused of deleting e-mails he received from different sources. The loss of e-mails was discovered when journalists examined the log files from the Public Health Agency e-mail server, which they had obtained through requesting information for public access. While trying to access e-mails from the log files some of the e-mails were discovered to be missing. The explanation for deleting them was, according to the agency, that they were deleted after an appraisal process in which they were deemed not to be valuable as permanent records. This was disputed by the press. The result was an article explaining that the Public Health Agency destroyed information concerning the pandemic, and roughly what their explanation were for this action. In the article there were also references to e-mails that the journalists did not gain access to because they were under the secrecy act. Some of these e-mails were related to face masks, which was
the focus of a rather heated discussion among press and public in Sweden during this time (Sandberg 2020).

The last discussion in the media I will analyze is built upon the public contacting the Public Health Agency. During 2021 there were reports that people who were displeased with the agency’s work e-mailed hateful and threatening messages to it. The journalist Ola Wong decided to investigate what the content of these e-mails was and did a request for all e-mails that had been categorized by the agency as hateful. The result was a large pdf-file containing all these e-mails that he together with his article presented to the public. In the article it is reported that an expert in security for government agencies investigated the e-mails and came to the conclusion that only the content of one of these e-mails would be classified as an actual threat in the legal sense (Wong 2021). We will return to classification of e-mails arriving at the Public Health Agency in the next part of this paper.

Use of public access

For the public, to apply for access to a document kept by the Public Health Agency the first step is to contact them in some way. Showing up at agency and ask, send an e-mail or a letter, fax to their fax number, or call the number of their operator asking to be connected to the registry office. In most cases their request would end up as a note (a row) in the digital registry. In the case of a request via telephone or by showing up in person this might not produce an entry, if it is a quick question regarding a document without secrecy that can be shown or handed over as a copy (or read over the telephone). In other cases it will be noted in the registry as an (incoming) request for public access to information. The template for the registry of the Swedish Public Health Agency consist of a number of metadata entries applied on both document and file level. The heading for all documents included in the file, and a central heading for the file itself. The date the file was created and the dates all included documents were created or received. The process within the agency the file is connected to and all employees that are working with the case. There are also metadata regarding how and why the file were created, if the creation were initiated by an internal process or if it was initiated by an external agent (SPHA 2021). Request for information from the public would be registered as coming from an external agent.
There are several instructions to the employees of the Public Health Authority. The employees are supposed to answer in a general way to questions regarding public health, and not get involved in specific cases that the public asks about. They should carefully take notice of the tone in the discussions on the Public Health Authority’s social media and pick up subjects that could be necessary for them to make a public announcement about. The employees are reminded of the Swedish Administrative Procedure act, SFS 2017:900, in which the government agencies are bound to offer service to the citizens without delay and with legal certainty (SPHA 2021b). In January 2020 the Public Health Authority created a specific e-mail address designated to questions regarding COVID-19. E-mail arriving at this address are categorized and forwarded to different addresses. The e-mails are color coded according to urgency and content, answered or forwarded to a civil servant appointed to answer a certain type of questions (SPHA 2021c).

From the Public Health Authority I requested the register of all incoming mail and e-mails on five specific dates during the pandemic. The register is an Excel-file for each requested date. The dates (2020-02-26, 2020-04-20, 2020-10-29, 2021-02-22, 2021-05-24) are all connected to a period with an increased rate of spread of Covid-19 in Sweden.

<table>
<thead>
<tr>
<th>DATE</th>
<th>TOTAL AMOUNT</th>
<th>MAIL FROM THE PUBLIC</th>
</tr>
</thead>
<tbody>
<tr>
<td>2020-02-26</td>
<td>275</td>
<td>167</td>
</tr>
<tr>
<td>2020-04-20</td>
<td>247</td>
<td>139</td>
</tr>
<tr>
<td>2020-10-29</td>
<td>236</td>
<td>161</td>
</tr>
<tr>
<td>2021-02-22</td>
<td>91</td>
<td>1</td>
</tr>
<tr>
<td>2021-05-24</td>
<td>58</td>
<td>~2</td>
</tr>
</tbody>
</table>
The Public Health Authority has categorized incoming mail from the public in two categories: questions and opinions. Added to the categorization are a specification of the subject: “Question regarding vacation in London”, “Opinion on the use of face masks” et cetera. Through the headlines it is not possible to see any formal request for information, the questions are more general. During 2020 there was a significant higher amount of requests from the public. As it seems the interest from the public is significantly lower during 2021. There are, on the 2020-10-29, a group of e-mails with the same or similar subject regarding an UNESCO-declaration from 2005 “Universal Declaration on Bioethics and Human Rights” (UNESCO 2005). According to the e-mails, the UNESCO declaration does not agree with mandatory vaccines or vaccine-passports. This seems to be some kind of organized campaign to protest measures that have been suggested to be implied by the state. In general the contact with the public are mostly in the form of questions regarding how to interpret the new directives from the agency.

ANALYSIS

Chantal Mouffe describes how the political climate in the Western world has turned suspicious with a lower trust in the authorities. There are a few direct signs of this in the material studied. It becomes clear if one look at the discussion in the media. An examination of the investigation conducted by Emanuel Karlsten regarding e-mails sent between different accounts connected to the Public Health Agency, shows contacts and discussions done behind the scene, that might have been more suitable to be done in the open. The e-mails seem to have been sent in a semi-private discourse, although these are official e-mail accounts that can be requested for public access. It is plausible to argue that this kind of correspondence could be a sign of a barrier between public and authorities and lead to a greater distance between these to groups. But still, since the e-mails have been published by a journalist, there is an effort to bridge this gap.

The tendencies we see in Wong’s article is actually more problematic from the view of Mouffe’s theory. Here we have the public, in its desperation over disease and being locked down in their own home, writing to the government. But the words they use are words of anger and considered as threats – although this is disputed by others. In this case we can use Chantal Mouffes idea regarding Einverstand and Einstimmung – two different ways of communication and reasoning. In the Government Agency’s
idea of proper communication we have can see a foundation of Einverstand, rational and logic reasoning. Anger and desperation have no place here – you are supposed to argue using rationality. But the people does not have any possibility to be laid back and use logic. They are united in Einstimmung a fusion of voices not logically but emotionally connected. A government employee might use a criteria of utility, arguing that we have to close restaurants to get a grip of a vicious pandemic. Believing that life is weighted against pleasure. But for the restaurant owner who looses his possibility to earn a living – and his employees that cannot find work – for them the weighting is rather life against life.

Turning to Habermas and the development of modern administration there are some interesting aspects that need to be noticed. If we claim that administration develops over time, changing due to other changes in society, we could use this to analyze the supposed increase in questions to the Public Health Agency during 2020. The high pressure put on the agency from the public, with the administrations reaction creating ad hoc routines to counter the sudden increase of contact, could be explained as a change in the foundation of governmental work. Showing that old routines does not work under the new circumstances. The older order of administration were suited for a different society with a less intense communication level. People today have a higher communication need and are used to finding information, and being informed, much faster than earlier. This could lead to stress when the agency cannot fulfill the need of the public to be informed. From Habermas we have the notion that public sector administration have changed over time from more private (concerning the individual in power) to a more general public administration. The change that has happened during the end of the 20th century and forwards, with an information society in which the inhabitants are used to a faster and more efficient communication is a similar change. Better communication and better information management could lead to a lesser need for individual communication with the public agencies.

**CONCLUSIONS; IMPLEMENTING A MODERN INFORMATION MANAGEMENT**

One plausible explanation for both the problems described by the journalist in the articles I have investigated and for the large amount of questions from the public is that there are need for a revised information management to cope with an increased request for information due to crisis. I will describe this need using three themes that are visible in the investigation and analysis above.
The first theme can be described as “Right information and communication in the right place”. To speculate regarding sensitive questions using an e-mail address belonging to your employer, an employer that is a part of the public sector, thus making the e-mails possible for public access, during a time of crisis, should be perceived as a problematic behavior. Communication that has a possibility to become public should be performed as if it is public from the beginning. Especially in a time of crisis when every word that the responsible agency communicates is weighted carefully by the public. In the investigation the e-mails from the consultant Johan Giesecke discussed in the article by journalist Emanuel Karlsten is a prominent example of a need to be more distinct in governmental communications. Regarding the e-mails to the Public Health Agency from the public, it is possible that many questions from the public actually could have been answered through the official web page, if they continuously used a lessons learned method in which common questions where picked up and answered through the official channels. Of course this is a complicated process, but the possibility to lower the amount of personal communication should be used, both for sake of the administrations efficiency, but also to create a better way of communicating with the public.

The second theme can be described as a call to transparency. It overlaps to some extent with the previous theme. Transparency consist of two parts: Knowledge of being transparent – which was discussed briefly above regarding the Giesecke-case. In a sensitive situation, as a pandemic, messages that can be released to the public should be clear and easy for the public to interpret. The main goal should be to not produce unclear and nontransparent information in any channel that can be accessed by the public. A strategy to counter misunderstandings and conspiracy theories. The other part of transparency is to actually be transparent. In this case, with an agency in a nation with a long tradition of transparency, to follow the law, and have systems at hand that facilitates transparency. The extreme case of non-transparency is when internal information is destroyed by an agency. Destruction can be destructive for transparency in at least two ways – destroying the possibility to use the information for research or assessment is one – the other is the risk of giving the impression that you are hiding something. The second one must be seen as very problematic during a global pandemic.
The third theme is “right classification”. The need for right classification becomes evident in the article by Ola Wong, where a numbers of e-mails perceived as threatening by clerks at the Public Health Agency, were classified as non-threatening by professionals who analyzed the e-mails. It is, especially during a period of high levels of information flow, important to have a sensitive system of information classification, not causing alarm when there actually is not threat. Otherwise there are possibilities of a misuse of resources and confusion among the media and the public.

In the end, it is difficult to interpret if the Public Health Agency did a good job in managing their information or not. There are few possibilities to compare their work to other agencies – The pandemic being such an unique situation. The pandemic is not over yet making it impossible to assess it as a whole. Maybe a comparison will be possible in the future when this crisis can be compared to other crisis. Not being too much of an optimist and believing there will be troubles in the future too.

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