Gottfrid Svartholm Warg: a year of his life from his mother's perspective

My son Gottfrid Svartholm Warg is one of the foremost computer experts in Sweden. He is one of the founders of the Pirate Bay. Gottfrid was convicted in the notoriously problematic Pirate Bay Trial for enabling others to violate copyright. That case was decided by a judge who was a member of various copyright lobby groups in Sweden, including the Swedish Copyright Association. [1] Even more bafflingly, Jim Keyzer, the lead police investigator changed his career while heading the Pirate Bay investigation, and announced his new job at Warner Brothers just a week after the investigation had officially concluded. [2] Our family will never accept this past injustice, but a new Kafkaesque trial, alleging hacking and fraud charges against my son, has forced us to focus on new violations of his due process rights.

Certain conditions experienced by Gottfrid are well-known problems of the Swedish justice system (this is, after all, a system that convicted an innocent man, Thomas Quick, for eight murders he did not commit in six separate trials). For example, the Swedish practice of holding a person in indefinite isolation has been widely criticised and is under review. Other injustices we have experienced are specific to my son. Our latest nightmare began when Gottfrid was disappeared in Cambodia by local and Swedish secret police, just under a year ago. There is no end in sight for us, as Sweden will extradite Gottfrid to Denmark, where another "hacking" trial awaits him, after the current process is complete.

The appeal hearing for the Swedish Logica/Nordea case commences on 28 August 2013 and may potentially continue until 11 September.

2013-08-18

August 2012: Arrested in Phnom Penh

My son was arrested in Phnom Penh, Cambodia on August 30, 2012. This was communicated to me by a friend living there. I realized from what I was told about the scenario – around a dozen police men entering his flat, searching through his things, taking photos before confiscating his computers - that this was not a common arrest.

I contacted the Swedish Embassy immediately and was handed over to a contact person at the Ministry of Foreign Affairs in Sweden. To begin with I was treated sympathetically, but during the following days the conversations became more and more strained. This was especially so when I realized from his friends in Phnom Penh that Gottfrid was no longer being held at the Counter-Terrorist Unit of Cambodia's Ministry of Interior Affairs, where he was first taken. The name of this department was frightening in itself. Now, no one would tell me for certain where my son was. The Cambodian police said he was at the Swedish Embassy – the people at the Embassy in turn said that he was with the Cambodian police. It was not until the third day of his disappearance that I, in despair, could compel my Swedish contact person to give me information that would convince me that he was still alive.

The course of events during the ten days that passed before Gottfrid arrived to

Sweden has been described in detail by one of his friends in Cambodia [3]. This friend tried to help Gottfrid in several ways, including by demanding meetings with the Swedish Ambassador Anne Höglund to tell her that Gottfrid had a right to be informed about his legal rights in Cambodia. For this purpose, Gottfrid's friend engaged an internationally respected Human Rights' lawyer, Sok Sam Oeun, but to no avail. Gottfrid was to be handed over to Sweden without getting any information at all about his rights under Cambodian law. This lawyer informed me that the authorities of both countries colluded to blur the lines between extradition and deportation in my son's case.

Several months later, when I finally gained access to the public documents from the Swedish Ministry of Foreign Affairs, I realized that important information had been withheld from me. This included information that Swedish security service were present in Phnom Penh and that they had visited Gottfrid 'every day' [4]. This is not what the corresponding police report says. This information would have been valuable to me in my worries, specially when I was not told about his whereabouts. I still can not understand why the Swedish authorities withheld this information from me.

There were not only police contacts between Sweden and Cambodia during this first week of September when Gottfrid was arrested, but also meetings at a senior political level, namely a meeting in which the Swedish Ambassador signed a new framework agreement involving a SEK 400 Million payment in the form of aid to the Cambodian government [5,6]. The person responsible for media contacts at the Swedish Ministry of Foreign Affairs, Anders Jörle, denied that this had anything to do with Gottfrid: 'The link is ridiculously far-fetched', he said. He also stated that 'no person who has been sentenced to a year in prison is worth 400 million to get home to Sweden.' [7]

This latter comment refers to the reasons given to the media about why Gottfrid had been arrested in Cambodia. The stated reason was only one - that Gottfrid should serve his sentence in The Pirate Bay affair. This was also the explanation presented by an international spokesman for the Swedish police, Bertil Olofsson, as well as by a representative for the Embassy, Tom Abrahamsson [8,9].

As soon as Gottfrid landed in Sweden, he was however arrested as a suspect of a separate criminal case involving hacking. Instead of being taken to prison to serve his sentence for The Pirate Bay, as was expected from the information we had got, he was immediately taken into custody. It took me a week to find out where he was, this time in Sweden. It took me another two weeks before I could meet him for the first time.

September - December 2012: Three months in solitary confinement

Gottfrid was kept in solitary confinement for approximately three months, as requested by the prosecutor. The prosecutor's request to place him in solitary was permitted by a court which renewed its decision every two weeks more or less in a rubber stamp way. Sweden has a two-week limit on requests of solitary confinement, but the courts can renew these indefinitely meaning that a person can be held in solitary without knowing how long this will last, even if they haven't been charged. The prosecutor justified keeping him in this condition with claims that he could destroy evidence and/or escape, even 'continue his criminal activities'. The more proportionate alternative would be to transfer him to prison where he could serving his sentence while waiting for the new prosecution to prepare its case, so the

prosecutor's arguments were not very convincing to me but evidently they were sufficient for the court.

My son had to spend 23 hours a day in his cell, alone with no contact with other inmates. For one hour a day he was allowed to leave the cell for walking 'outdoors', still alone, in a small space with high concrete walls and a grid on top. All his mail was read by the prosecutor. The only activity available was watching TV and reading. No electronic equipment of any kind was allowed.

I got special permission from the prosecutor to visit him in the building where he was kept, the remand prison in Sollentuna, a new building half an hour's way from Stockholm city. The first contact I had with this facility I found frightening: a strict security control to pass, surveillance cameras, doors that open after one presses call buttons, a lift in stainless steel that moves automatically, guards barely discernible behind toned panes and so on. For my visits I first had to make an appointment with two policemen who followed me, listened to my conversations with Gottfrid and stopped our conversation if they considered it got too close to the case he was a suspect of.

I have learned later that the little contact I had was in fact exceptional: I could meet Gottfrid in this way for one hour almost every week during the months that followed. Most people held in solitary confinement in Sweden have an even harsher regime where they are not allowed even this weekly contact with their close family.

December 2012: Moved to 'ordinary' custody

After the first week of December I was informed that Gottfrid had been moved to another department in the building, finally released from his solitude. However, my delight at this good news was dimmed when I realized that my permission to visit him was no longer valid. I had to get through the bureaucracy of the Swedish Prison and Probation Service to get a different permission, now from the Service itself, not from the prosecutor.

For this I had to follow the common rules for visitors: I needed an invitation from Gottfrid, written on a special form, that I would sign and return. Then the service would check whether I had any police records. This application was also valid for getting permission for him to make phone calls to our house, something that he had been prohibited to do until then. Importantly, however, the phone connection had to be the traditional landline type; calls over the internet or mobile calls are not allowed by the Prison and Probation Service. The permission for making calls is one-way directed only and thus only the inmate that can make calls.

While waiting for obtaining the new permission I could reach him with letters and post cards only. Since these did not have to pass the prosecutor's eyes anymore he should get them within a few days instead of weeks. I could also leave books and magazines for him in the reception. Not many, though: 10 books is the maximum for each inmate's storage. Other things, such as any edibles, are not allowed as gifts.

On December 17 when I arrived at the remand prison to hand in some books for Gottfrid, they could not find his name and number in the register. He had been moved. No one could tell me where he was. He was lost once again for me.

January 2012: In prison

Gottfrid's attorney, Ola Salomonsson, just like me had not been informed that Gottfrid had been moved. Through his inquiries I found out that Gottfrid had been moved to a prison in Mariefred, not very far from Stockholm. Gottfrid was allowed to make a short telephone call to me shortly after his arrival, out of the protocol, but then we had to wait to get in touch again. The application form for getting permission to visit him once again had to be changed for it to be valid for prison instead of custody. When permission was granted, the strict scheduling for making an appointment had to be observed – we could meet at last, one month after his arrival to Mariefred prison.

This meeting, as well as our other weekly meetings during the months to come, was held in a small cell where we were locked up together. He was in good spirits all the time but bored; more bored as time passed. There was very little for him to do. Only books and magazines, PlayStation 1 for his entertainment and a Walkman cd-player for listening to music were allowed in his cell. 'Work' consisted of folding little pieces of plastic for stores to put their price slips into. Studying at daytime was not permitted to everyone. We were told that Gottfrid was not eligible for studying because it required special permission, granted only to prisoners with longer sentences than his.

Since prisoners are locked up in their cells early in the evening Gottfrid wished to fill his time in his cell with self study in advanced mathematics. I helped him to find an appropriate distance course, free of charge, and he applied for allowance to keep a calculator in his cell for his studies. The answer from the prison authorities was no. The reasons given was that the calculator posed a 'Security risk', because it presented 'problems to identify the item at visitations' [10]. Gottfrid appealed this. The decision on his appeal is still pending, even though he finished serving his sentence over three months ago.

April 2013: The prosecution

Time passed, however slowly. In January the prosecutor told the media that he expected the investigation to finished 'soon' after which he would submit the matter to prosecution [11]. This message was repeated a couple of times during the months that followed. Then, on April 16, he presented the prosecution in public, which meant that the court proceedings would soon begin. Media, including Swedish television, covered this immediately.

This was how Gottfrid found out that formal prosecution proceedings had been initiated: locked up in his cell, alone, in the evening, watching the news on TV. He had not been informed of developments in the case against him. No other information about it had reached him. Two days later he visited the storage where his things were kept, and there - by accident - he found a package containing the police investigation, protocols and documents, amounting to around 1 600 pages. Someone had put the package there without making sure that he was informed.

Elsewhere I have commented the charges against him as presented by the prosecutor [12]. I have also commented this poorly managed process for letting him know about the prosecution and the investigation leading to it [13].

The dates for court were set and the legal proceedings would begin a few weeks later. This is the time generally allowed so that one can prepare oneself before the criminal

trial. However, documents of the kind found in his storage are supposed to be handed over to the indicted persons earlier, before the main prosecution documents are submitted, particularly in a complex trial such as this one which involves vast amounts of documents and resources. This was never provided to Gottfrid, which disadvantaged him.

My son had thus only four weeks to grasp the charges against him, to read trough thousands of pages of court documents, many of them containing highly technical information, and to assist his lawyer in finding witnesses to support his case – not an easy task in itself. It soon became evident that Swedish IT-experts were either directly connected to the case having worked for the police and/or the authorities and companies involved, or did not want to cooperate with the defence so as not to disturb any eventual future relations to them.

His task was not facilitated by the fact that he was not able to contact any friends or other people directly by himself from where he was; he had to rely on his attorney and on me.

May 2013: Preparing for court

Considering the amount of time and the seemingly unrestricted resources at the prosecutor's disposal, I can only consider the legal process as such as unbalanced, unfair and basically undemocratic.

For instance, the evidence presented against Gottfrid was not only in the form of printed documents, but Gottfrid was only allowed hardcopies. The court documents included data files which were presented as evidence which were not made available to him because he was not allowed access to a computer in his cell. He was told that it was impossible to make paper copies for him since these files were too large. He was also denied access to the voluminous preliminary investigation documents – around 50,000 pages - for the same reason.

Eventually he was allowed to read the files and documents in their digital format, but the time allotted for this was highly restricted. It was partly overlapping with the court schedule. The trial had already started by the time he was given the opportunity to sit by a computer to skim through all this information.

But maybe the most unfair part of this from my point of view was that Gottfrid was not able to discuss the technical aspects of the casewith anyone during this time. He had completed his prison sentence on May 9th and had since been transported directly back into custody where he remained in pre-trial detention as requested by the prosecutor. To begin with, he was placed in the solitary confinement unit, due to lack of space, but even when he moved to an 'ordinary' department after a week he had no one to discuss the technicalities with in depth. The time for visitors (except for his attorney) was restricted to one hour a week in total.

The need to discuss the case with a technical expert, particularly in a complex and specialised case such as this one where the prosecution has engaged vast resources to build its case is extremely important. My son was not able to prepare properly in this case because he did not only need his attorney's expertise before and during the process in court. The importance of access to technical expertise while preparing for and during trial, especially when the trial lasts for several days like this one, is

seriously neglected by the rules for suspects kept in detention and has had a detrimental effect on Gottfrid's case.

June 2013: Extradition to Denmark

The last day of the trial, on June 5th, the day when the two sides were about to present their final pleas, the court called a meeting half an hour before the appointed starting time. Behind closed doors the prosecutor presented a request to extradite Gottfrid to Denmark. He was suspected of a major hacking crime, similar to the Swedish one. Such requests are not tested according to the merit of the accusations; instead the Nordic countries have entered into an agreement of trust where they execute each other's requests and presume the validity of the legal claims.

Gottfrid had been presented this request by the Danish police a few days earlier, but to the members of the court this must have been absolutely new information. Sweden does not have a jury system. The court at this lower level consists of politically appointed laymen and one professional judge.

I can not help thinking about how this information affected the court members in their listening to the pleas that followed that same day. Gottfrid had been pointed out to them in the morning as a presumed criminal, as suspected of being a hacker with evil aims without any consideration of the merits, by the Danish request. Could the lay judges, and even the judge for that matter, who were about to decide on Gottfrid's guilt or innocence really free themselves fully from this inner picture of him and this new unrelated information when listening to the prosecutor and the defence's closing arguments? Personally I doubt it. They are all human beings.

The Danish request for extradition was granted [14]. It would be implemented when the Swedish legal process was finalized. Gottfrid would be kept in solitary confinement until the Danish police had questioned him.

June - August 2013: The verdict and preparing for the Appeal

The sentence was made public on June 20: two years in prison. This was a week later than the date first announced. Meanwhile, Gottfrid had been waiting in his cell, alone and kept away from any contact with the outside world except for with his attorney and restricted contacts with me.

I was allowed to visit him 30 minutes per week. My visits were conditional on two guards being present in the small visitors' room. The guard enforced the rules strictly and checked carefully that Gottfrid and I were never closer to each other than 2 meters. No hug, no physical contact at all was allowed. We were not allowed to talk about Denmark or any similar matters.

After almost a month the Danish police finally travelled to Sweden to question him. Soon after, he was moved to the general section of the remand prison, freed from the solitary confinement but back to 'ordinary' custody and its 'ordinary' rules.

And that is where he is at this very moment when I am writing this. In there he is waiting for his case to appear in the Appeal Court where he has appealed his sentence [15]. Being kept away like this, in pre-trial detention with restrictions as to contacts

with the outer world makes it difficult for him to prepare properly for this case. He is fighting with an obvious disadvantage, just as before.

But somehow he has managed to keep up his fighting spirits throughout this long period in spite of everything that has happened to him. I am proud of my son.

Other people, who are less equipped to deal with this situation than my son would not be able to cope with a disadvantaged legal situation. This is a problem of the system as a whole.

Some closing remarks

I understand now why there are suspects that can not bear being kept away in solitary confinement and custody for a long time but confess guilt, despite being innocent, in the hope that this will help them out from there [16].

Further, I understand that there are suspects that loose their intellectual vigour during their stay in detention, even when they would need it in full for defending themselves in court. The waiting and waiting that just continues and continues, in unapprehensible uncertainty as to what and when anything will happen, must be harmful to any person's mental health. If that person finds themselves in isolation, this process is even more destructive. A report by Sweden's Prison and Probation Service concludes:

'For detainees in the group with restrictions, there remains a risk that they will suffer from mental illness also taking into account other factors that affect the situation. One must ask whether this is a problem of legal certainty. A person with depression or anxiety disorders has impaired ability to participate in the hearings, read the investigation, confer with a lawyer and appear in court. The risk is that this can seriously affect the detainees' ability to defend themselves.' [17]

I can not understand, however, why we still have this system of keeping people indefinitely in custody, including in solitary confinement, while waiting for police investigations and trials. Sweden violates their Human Rights obligations in this matter – and we have been severely criticized but nothing has happened. It is not until recently that the pressure from calls for reform, including from lawyers themselves, have been acknowledged by the authorities.

In June this year the Swedish prosecutor-general proclaimed that he had appointed a working-group for reviewing the system. This group consists of seven prosecutors, one lawyer, one representative of the police and one of the Prison and Probation Service [18, 19].

I do regret that the imbalance is so obvious also in this. Having seen the way the current system favours the prosecutor and the state rather than the accused, I remain skeptical as to whether the reform will be as thorough as it should be. The reforms will probably not affect my son, but I regret having to live in country that so poorly defends a person's right to prove their innocence.

Stockholm, August 2013

Kristina Svartholm, his mother

- (1) http://www.thelocal.se/19028/20090423/
- (2) http://falkvinge.net/2012/07/06/aftermath-of-the-pirate-bay-trial-peter-sundes-plea-in-his-own-words/
- https://www.techdirt.com/articles/20120709/03210219621/peter-sunde-pirate-bay-spokesperson-details-why-his-conviction-was-farce.shtml
- (3) http://qnrq.se/sweden-kidnapped-anakata/
- (4) http://gnrq.se/inside-the-anakata-kidnappers-lair/
- (5) http://qnrq.se/logica-national-special-event-morgan-part-five/
- (6) http://www.craigmurray.org.uk/archives/2012/09/gottfrid-svartholm-warg-charged-again-in-sweden/
- (7) Quote (my transl.) from an article at DN.se 2012-09-06, now erased. Cf. http://www.pcworld.com/article/261831/pirate bay cofounder arrested in cambodia.html
- (8) http://www.svt.se/kultur/pirate-bay-grundaren-kan-utlamnas-idag
- (9) http://www.bangkokpost.com/breakingnews/311785/cambodia-deports-pirate-bay-co-founder
- (10) http://wikileaks.org/gottfrid-docs/
- (11) http://torrentfreak.com/pirate-bay-founder-could-be-prosecuted-for-hacking-within-a-month-130129/
- (12) http://asherwolf.net/kristina-svartholm-anakatas-mother-speaks-out/333/
- (13) http://torrentfreak.com/the-pirate-bays-gottfrid-learns-of-hacking-charges-via-tv-news-130422/
- (14) http://torrentfreak.com/pirate-bay-founder-will-be-extradited-to-denmark-130618/
- (15) http://torrentfreak.com/pirate-bay-founder-appeals-jail-sentence-in-hacking-case-130708/
- (16) http://sverigesradio.se/sida/avsnitt/217530?programid=1302
- (17) My transl. of the conclusion, p. 23 in a report from the Prison and Probation Service: http://www.kriminalvarden.se/upload/nyheter/Slutrapport_Psykisk_halsa.pdf
- (18) http://www.aklagare.se/Media/Nyheter/Arbetsgrupp-ska-se-over-restriktioner-och-haktningstider/
- (19) http://www.aklagare.se/PageFiles/10542/uppdrag.restriktioner.1.pdf