

# A Reflection on the Cultural Significance of the Protection of Classics

By Martin Fredriksson

## ABSTRACT

This article applies a cultural perspective on § 51 of the Swedish Copyright Act, which prohibits the rendering of works in the public domain ‘in a way that offends the interests of spiritual cultivation’ (SFS 1960:729). This so called ‘protection of classics’ was formulated in the 1950s to protect classical works against derogatory interpretations, such as popular cultural adaptations. § 51 has rarely been applied, but in 2021 it was for the first time tried in court as the nationalist website Nordfront was accused of violating §51 by publishing works by three prominent romanticist poets in a context bordering on hate speech. The court ruled that the publication was not a violation of § 51, which calls the future of the protection of classics into question.

Even though §51 might soon be obsolete, it raises a number of questions regarding the relation between law and culture. This article discusses what the protection of classics and the Nordfront case can tell us about cultural change in postwar Sweden if it is approached as a cultural rather than a legal text and studied not primarily as a legislative process but as a process of meaning making. The article makes no attempts to conduct such an analysis but rather aims to introduce the perspective and present preliminary reflections on how the formulation and use of protection of classics reflects changing conceptions of cultural norms and values

## THE FALL OF THE PROTECTION OF CLASSICS

In April of 2021, the Swedish Court of Patents and Trademarks passed a historic verdict when it for the first, and possibly the last, time tried § 51 of the Swedish Copyright act.<sup>1</sup> This paragraph, also known as the protection of classics, states that:

*If a literary or artistic work is rendered in a way that offends the interests of spiritual cultivation, a court may, at the request of an authority appointed by the*

*government, prohibit distribution and sanction a fine. What is here stated shall not apply to reproductions rendered during the lifetime of the author.<sup>2</sup>*

In theory, this would mean that works of particular cultural significance can be protected against reproductions that are considered offensive, even if the works are in the public domain.<sup>3</sup> The Swedish Copyright Ordinance states that only the Swedish Academy [Svenska akademien], the Academy of Music [Kungliga musikaliska akademien] and the Academy of Fine Arts [Konstakademien], have the right to take legal actions when classical works within their respective domains are reproduced in ways that could constitute violations of § 51.<sup>4</sup>

While § 51 has been in force since 1961, it has only been utilised on rare occasions when the academies have reacted to uses and adaptations of works that they have found to be a violation of the protection of classics. Up until recently, all of these potential cases have been settled outside of court, usually after the defendant agreed to withdraw the contested publication. This changed with the case *Svenska Akademien v. Nordfront & Nordiska Motståndsrörelsen* [2008] PMT 17286-1 (hereafter referred to as the *Nordfront* case) in the winter of 2021. The case dates back to the fall of 2019, when the Swedish Academy first confronted the national socialist online journal *Nordfront* for having published excerpts from the Norse epic *Havamal* and poems by three prominent Swedish romanticist authors: Esias Tegnér (1782-1846), Victor Rydberg (1828-1895) and Verner von Heidenstam (1859-1940).<sup>5</sup> Chosen passages from the poems that appeared to express nationalist values were juxtaposed to articles propagating hate against homosexuals and covertly celebrating the terrorist attack in Christchurch, New Zealand, in March 2019 where a white supremacist shot and killed 51 people in a mosque. The Swedish Academy argued that publishing works of such cultural significance in a context that so blatantly offended common social and cultural values was a violation of § 51 and urged *Nordfront* to take down the publication. When *Nordfront* refused to comply, the Swedish Academy decided to take the case to court.

Up until now, the Academies had appeared reluctant to take a more proactive role in enforcing § 51. While they had received petitions from the public to take actions against various alleged violations of the protection of classics, only a few of those had been pursued, and in those cases never in court. The vast majority of potential

cases were discarded by the academies themselves. Generally, the position of the academies seems to have been that the protection of classics is too difficult to enforce; as the Secretary of the Swedish Academy, Horace Engdahl, put it 15 years before the *Nordfront* case: 'How do you prove that someone has violated the interests of spiritual cultivation when no one anymore can explain the meaning of the expression 'spiritual cultivation'.'<sup>6</sup> On a similar note law Professor Marianne Levin sees the lack of a common cultural frame of reference as an obstacle to properly enforcing the protection of classics:

*[§ 51] can only be enforced in a meaningful and reliable manner if there is a reasonably solid and commonly shared understanding of culture to refer to. This might possibly have existed for certain periods. But for most modern forms of utilizing works of art, there are hardly any commonly accepted limitations.*<sup>7</sup>

Existing research tends to agree that the protection of classics is obscure, hard to enforce and incompatible with fundamental legal principles such as freedom of expression.<sup>8</sup> For six decades the protection of classics thus led a life in the margins and the general view appears to have been that it is outdated and practically unapplicable.

The ruling in the *Nordfront* case seemed to confirm the view of the protection of classics as unenforceable. The court stated that § 51 was originally intended as a protection against derogatory *adaptation* of classical works and that it cannot be applied when the works are reproduced in their original form. The court thereby discarded the argument of the Swedish Academy that the publication violates the protection of classics merely because the context in which the works are published, itself offends the interests of spiritual cultivation. The court furthermore expressed concerns that an extensive applications of § 51 could be too

restrictive to the free use of works in the public domain.<sup>9</sup>

Shortly after the verdict, the Swedish Academy issued a press release where it declared that while it did not agree with the court's decision, which practically rendered § 51 useless, it had decided not to appeal the verdict. It reasoned that the legal meaning of the phrase 'the interests of spiritual cultivation' should be defined by a court and not by the Swedish Academy and that it had taken the case to court, hoping for a precedent that could clarify the future use § 51. Subsequently, the Swedish Academy urged the government to reassess if and how the protection of classics should be applied in the future, arguing that the protection needs to be 'modernised'. The press release furthermore concluded that the protection of classics should be enforced by a public authority rather than by a private foundation like the Swedish Academy. Thus, the Swedish Academy not only questioned the role of § 51 but also disqualified itself as its guardian and explicitly asked to be relieved of the duty of enforcing the protection of classics.<sup>10</sup>

In spite of the fact that both the verdict and the response from the Swedish Academy tend to discard the protection of classics as outdated and practically unenforceable, I would argue that the case proved that the protection of classics is a more urgent object of study than ever, if not from a legal perspective then definitely from a cultural perspective. This article will ask what the protection of classics and the *Nordfront* case can tell us about cultural change in postwar Sweden if it is approached as a cultural rather than a legal text and studied not primarily as a legislative process but as a process of meaning making. The article makes no attempts to conduct such an analysis in full, which would require a much more comprehensive study. It simply aims to introduce the perspective and present preliminary reflections on the cultural significance of the protection of classics.

<sup>1</sup> Patent och Marknadsdomstolen, Dom 2021-04-15 PMT 17286-19.

<sup>2</sup> 'Om litterärt eller konstnärligt verk återgives offentligt på ett sätt som kränker den andliga odlingens intressen, äger domstol på talan av myndighet som regeringen bestämmer vid vite meddela förbud mot återgivandet. Vad nu är sagt skall ej gälla återgivande som sker under upphovsmannens livstid'. SFS 1960:729, *Lag om Upphovsrätt till litterära och konstnärliga verk* § 51.

<sup>3</sup> Ulrika Wennersten, *Immaterialrätt och skydd av samhällsideal: En studie av klassiker-skyddet i upphovsrättslagen och undantaget i varumärkesrätten, mönsterrätten och patenträtten för allmän ordning och goda seder* (Lund University, 2014); Gunnar Karnell, 'Moral Rights and Modern Times – The Gradual Obsolescence of Section 51 of the Swedish Copyright Act', in *Mélanges*

*Victor Nabhan*, (Éditions Yvon Blais, 2004).

<sup>4</sup> SOU 1956: 25, *Upphovsmannarätt till Litterära och konstnärliga verk: lagförslag av Auktoritetskommittén*, 410; SFS 1993:1212, Upphovsrättsförordningen §6.

<sup>5</sup> Lydia Farran Lee, 'Svenska Akademien har stämt Nordfront – kräver vite', *Sveriges Television* (Stockholm 20 December 2019) <https://www.svt.se/kultur/svenska-akademien-har-stamt-nordfront> accessed 27 November 2022.

<sup>6</sup> 'Hur bevisar man att en viss part har kränkt den andliga odlingens intressen, när knappast någon längre kan förklara innebörden i uttrycket "andlig odling"?', Svenska akademiens högtidssammankomst 20 December 2005 <https://www.svenskaakademien.se/svenska-akademien/sammankomst/hogtidssammankomsten/hogtidssammankomst-20-december-2005>

accessed 27 November 2022.

<sup>7</sup> '[§ 51] kan bara utövas meningsfullt och säkert, om det finns en någorlunda fast och allmän kulturuppfattning att hänvisa till. En sådan har möjligtvis funnits under vissa perioder. Men för flertalet moderna verkutnyttjanden finns det knappast några allmänt accepterade gränser'. Marianne Levin with Åsa Hellstadius, *Lärobok i immaterialrätt* (12th edn, Norstedts Juridik 2019).

<sup>8</sup> Wennersten (n 3); Karnell (n 3).

<sup>9</sup> PMT 17286-19 (n 1).

<sup>10</sup> Svenska Akademien, Klargörande kring Klassikerskyddet' (30 April 2021) <https://www.svenskaakademien.se/press/klargorande-kring-klassikerskyddet> accessed 27 november 2022.



## Contextualizing Law as Culture

The relation between law and culture has gained much attention in the last 20 years, not the least in the fields of cultural studies and anthropology. From an anthropological perspective, laws are basically codifications of social norms that constitute a system of value which, together with traditions and perceptions of the world, form the foundations of an anthropological definition of culture. From that viewpoint, law and culture are not separate spheres but inherently intertwined processes and practices.

Law Professor Naomi Mezey argues that '[l]aw is simply one of the signifying practices that constitute culture, and, despite its best efforts, it cannot be divorced from culture. Nor, for that matter, can culture be divorced from law'.<sup>11</sup> She goes on to conclude that 'law and culture are mutually constituted and legal and cultural meanings are produced precisely at the intersection of the two domains, which are themselves only fictionally distinct'.<sup>12</sup> This has implications for how we can study law and what we can learn from it. If law, as Mezey further argues, 'can be seen as one (albeit very powerful) institutional cultural actor whose diverse agents (legislators, judges, civil servants, citizens) order and reorder meaning' then studying copyright can also tell us something about the articulation of cultural values.<sup>13</sup> Anthropologist Jane Cowan *et alii* argue along similar lines when they conclude that 'culture, rather than being solely an *object* of analysis, can be employed as a means of analyzing and better understanding the particular ways that rights processes operate as situated social actions'.<sup>14</sup>

The question is thus, what the protection of classics and the *Nordfront* case can tell us about changes in Sweden's cultural landscape if we follow Mezey's and Cowen's call and analyze the law as statements and social

actions that order and reorder meaning situated within a specific cultural context.

Such an analysis could begin with a close reading of the preambles to Sweden's current *Act on Copyright to Literary and Artistic Works* (SFS 1960:729): a comprehensive report that was published in 1956 outlining the content and context of the new Swedish copyright law that was to be passed in 1960.<sup>15</sup> This 600-page document analysed the legal circumstances and accounted for previous and existing copyright legislation both in Sweden and internationally in great detail. This is a document that in itself provides a rich source of information on modern copyright historiography, since it gives an overview over a cross section of all major aspects of copyright law that were under debate at the mid-20th century. In this article I will approach the 1956 report not primarily as a legal source but as a document reflecting and responding to the social, cultural and media historical process in postwar Sweden. I will thus contextualize the source in relation to modern cultural history rather than to legal history. Finally, I will ask what the *Nordfront* case can tell us about contemporary cultural dynamics against the backdrop of that cultural history.

## The Rise of the Protection of Classics

The origins of the 1956 report date back to 1938, when the justice department appointed a committee of experts on authors' rights to draft a new copyright act to replace the existing law from 1919. Due to the outbreak of the Second World War the work was postponed, but in 1956 the committee of experts, supervised by law Professor Gösta Eberstein, finally presented a proposal for a new copyright act that would eventually become the *Law on Copyright to Literary and Artistic Works* (*Lag om upphovsrätt till litterära och konstnärliga verk*, SFS 1960:792). The prehistory of § 51 however begins before the committee of experts was appointed, since the formulation of the protection of classics in the 1956 report was directly inspired by a discussion about a public paying domain that had been going on since the 1920s.

Public paying domains existed in many countries in Europe and elsewhere in the 20th century. They have taken various shapes in different contexts, but funda-

<sup>11</sup> Naomi Mezey, 'Law as Culture' In *Austin Sarat and Jonathan Simon* (eds), *Cultural analysis, cultural studies and the law* (Duke University Press 2003) 45.

<sup>12</sup> *ibid.*

<sup>13</sup> *ibid.*

<sup>14</sup> Jane K Cowan, Marie-Bénédicte Dembour and Richard A. Wilson, 'Introduction', In Jane K Cowan, Marie-Bénédicte Dembour and Richard A. Wilson, *Culture and Rights: Anthropological Perspectives* (Cambridge University Press 2001).

<sup>15</sup> SFS 1960:729 (n 2).

<sup>16</sup> Adolf Dietz, 'A Modern Concept of the Right of the Community of Authors (Domaine

Public Payant)' [1990] 24:4 *Copyright Bulletin*; Maximiliano Marzetti, *The Law and Economics of the 'Domaine Public Payant': A Case Study of the Argentinian System* (University of Rotterdam 2018).

<sup>17</sup> Första kammaren, Motion no 11, 1924.

<sup>18</sup> Första Kammaren, Protocol no 38, 1924; Andra Kammaren, Protocol no 38, 1924; SOU 1937: 18, *Promemoria angående grunderna för en reform av lagstiftningen om rätt till litterära och musikaliska verk*, 17.

<sup>19</sup> 'ge det allmänna befogenhet att ingripa till skydd för de ideella värdena hos de mer betydelsefulla litterära och konstnärliga verken'. SOU 1956:25 (n 4) 403.

<sup>20</sup> Första kammaren, Motion no 11, 1924.

<sup>21</sup> 'Hur litet den svenska allmänheten i verkligheten fäster sig vid kritikens varningar för det dåliga, som bjudes i bokväg, framgår bäst av hela Nick-Carter-litteraturen, som endast genom de socialdemokratiska ungdomsklubbarnas praktiska bojkott mot försäljningsställena för en tid utrotades'. Lagutskottets utlåtande, no 36 1924, 14.

<sup>22</sup> Ulf Boëthius, *När Nick Carter drevs på flykten* (Gidlunds 1989).

<sup>23</sup> Första kammaren, Motion no 11, 1924, 14.

mentally a public paying domain allows the state, a collecting society or a similar organisation, to charge a fee for republications of older works that are in the public domain, and use the revenues to support living artists. The provision relies on the assumption that if publishers profit from the free access to works in the public domain it is only fair if they share the revenues from works by long dead authors with living authors who can be considered the spiritual heirs of writers from the past.<sup>16</sup>

In 1924, a proposition to include a public paying domain in the Swedish copyright law was presented to the parliament.<sup>17</sup> The proposition was taken under serious consideration but finally rejected on the grounds that such a provision could increase the price of literature by imposing something akin to a tax on classical works, and that extensive state interference in the realm of literature could violate cultural freedom and integrity.<sup>18</sup> During the following decades, the question would resurface regularly, only to be repeatedly rejected on similar grounds. While the idea of a public paying domain as a tool for economic redistribution never gained the approval of the Swedish legislators, a parallel narrative about protecting cultural values and the artistic integrity of the classics emerged in the discussions. Many of the proponents of a public paying domain argued that a positive side effect of such a provision would be to provide a tool for the state to maintain a certain control over the publication of older works and prevent bad or disrespectful editions of classical texts. When the committee of experts drafted the copyright act of 1960 it once and for all discarded the idea of a public paying domain, but it acknowledged the need for a law that 'gives the public the authority to interfere to protect the moral values in the more significant works of art and literature.'<sup>19</sup> The consequence of this was the drafting of § 51.

The need for some kind of moral rights protection for works in the public domain was motivated by a fear that new commercial media practices would undermine established cultural values. This was evident already in the first proposal for a public paying domain from 1924, which argued that the state needed legal means to protect the 'free' literature from being reprinted in substandard editions by unscrupulous publishers.<sup>20</sup> When the 1924 proposition for a public paying domain was sent to the Swedish Writers Union [Svenska Författarförbundet] for referral, the Writers Union wholeheartedly embraced the idea of an extended moral rights protection for works in the public domain which it saw as a timely response to the numerous threats to the integrity of literary works presented by the modern publishing industry: threats ranging from censorship based on moral or political considerations, to purely commercial compromises. The Writers Union was primarily concerned that publishers would sacrifice eternal literary qualities for quick revenues by publishing classical works in shortened or badly edited versions.

These fears were related to a belief that the proliferation of popular culture and light entertainment had a negative impact on public taste and caused general deterioration of literary sensibilities. The Writers Union lamented

the public's tendency to listen more to glossy advertisement from dubious publishers than to serious literary critics:

*How little attention the Swedish public pays to the critical warnings about all the bad things that are offered when it comes to books, is most obvious if we look at the Nick-Carter-literature which could only be temporarily exterminated through the social democratic youth clubs' boycott of the vendors.<sup>21</sup>*

Here the Writers Union made a reference to the so-called Nick Carter debate that raged in Sweden 15 years earlier. Nick Carter was the protagonist in an American series of crime novels that were widely distributed in newspaper stalls and kiosks across Sweden in 1908, in cheap translations. As such, the Nick Carter series was not unique: the modernization of Swedish society, with rising income, more leisure time and high levels of literacy, had contributed to a rapid expansion of the book market and a growing demand for cheap and entertaining literature. These new reading habits had however caused concerns regarding changing social norms and literary values. The Nick Carter series, with its spectacular depictions of crime and adventure catering particularly to young readers, came to represent literature of dubious quality undermining the morals of modern youths.

A moral panic arose around the Nick Carter novels and numerous civil and political organizations, from socialists to conservatives, joined forces to battle the new generation of decadent literature – soon to be known as 'Nick-Carter-literature' – which was believed to cause moral and mental decay among the youth.<sup>22</sup> The Nick Carter saga ended quickly when the distributors cancelled the series in 1909, after the social democratic youth club had launched a wide spread boycott against vendors who sold Nick Carter novels. The debates about the vices of popular literature nevertheless persisted since a new form of cheap and entertaining literature tailored for youths was now an established genre on the book market, and by 1924 it was obviously still personified by Nick Carter. While the Nick Carter novels were far removed from literary classics the Writers Union raised them as an example of the greed and lack of scruples that characterizes segments of the modern commercial publishing industry, implying that if publishers deal this carelessly with contemporary literature protected by copyright, then works in the public domain might be even more vulnerable.<sup>23</sup>

A presumption that commercialism and popular culture presented a threat to established cultural values persisted throughout the discussions about a public paying domain and culminated with the inclusion of the protection of classics in the 1960 Copyright Act. The 1956 report however expanded the discussion to a wider range of media, beyond printed texts. From a media history perspective the copyright act of 1960 emerged in a time of rapid change, and one of its goals was to amend the failures to address the new media technologies of the 20th century that had marked its predecessor, the copyright act of 1919, which paid little attention to the emerging film medium



and, for obvious reasons, left out broadcast media entirely.<sup>24</sup> Consequently, the new media landscape that emerged after the war was addressed in various ways in many parts of the report, including those that discuss the protection of classics. Here the modern music industry also entered as a potential threat to traditional cultural values. Apart from dubious editions of literary works the report also made references to Jazz paraphrases of classical compositions as examples of offensive reproductions of classical masterpieces.

This indignation over jazz paraphrases was nothing new; in a consultation with the Swedish Organisation of Composers (STIM) [Svenska tonsättares internationella musikbyrå] regarding another proposal for a Swedish public paying domain in 1936, STIM warned against the proliferation of jazz paraphrases of classical works by respected composers such as Chopin and Wagner.<sup>25</sup> The fact that jazz adaptations were still a controversial issue in the early 1960s, is evident not only from the examples in the report, but even more from the fact that the first utilization of the protection of classics in Sweden concerned a jazz adaptation. In September 1961, just three months after the new copyright law entered into force, the Academy of Music received a petition from STIM regarding a new record by Duke Ellington: *Swinging suites* by Edward E. and Edward G., that had just been released in the USA but had yet not reached the Swedish market. The record consisted of a series of jazz interpretations of Edward Grieg's (1843-1907) 1875 composition *Peer Gynt*, which had recently fallen into the public domain. STIM argued that Ellington's recordings violated the protection of classics. After taking the case under consideration, the Academy of Music agreed that the recording was 'offensive to the Nordic musical culture',<sup>26</sup> but took no legal action since the Swedish agent had already decided not to distribute the record out of fear of causing controversies. Just like the Nick Carter novels, jazz and other forms of popular music were often seen as expressions of American commercialism. The reception of Jazz in Sweden was,

however, also associated with a process of modernization that called traditional values into question, actualized new distinctions between low versus high culture, and epitomized the birth of a distinct youth culture.<sup>27</sup> On top of that, jazz also for the first time gave black performers and a non-European music tradition a place in mainstream culture in the Nordic countries. A sense of jazz as a foreign element in Swedish culture was also acutely present in the Academy of Music's characterization of the African American jazz musician's interpretation of the Norwegian composer's canonical work as 'offensive to the Nordic musical culture'. The potential racial undertone to this indignation becomes more evident considering that the Swedish piano player Jan Johansson could release his widely acclaimed jazz adaptations of Swedish folk songs, *Jazz på Svenska [Jazz in Swedish]*, just three years later.

The protection of classics clearly emerged as a response to the modern transformation of Swedish society. It was seen as a necessary tool to stifle the challenges to cultural values and norms brought on by a changing book market, a new media landscape a proliferation of more or less commercial forms and genres of art and entertainment. In short, it was an attempt to maintain traditional cultural hierarchies and protect high culture against the destructive influence of popular and youth culture. Regarded in retrospect, the views and values that underpinned the protection of classics seem anachronistic, and the legislators of 1960 almost appear to be taking a last stand against an approaching wave of cultural change which was, at that time, only mounting at the horizon. Just ten years later the general frame of reference had changed radically: jazz had been accepted as high art and in 1970 Duke Ellington was appointed an international member of Sweden's Academy of Music.

## Conclusion: Nordfront revisited

Studying the origins and history of the protection of classics within its contemporary cultural context gives an

<sup>24</sup> Martin Fredriksson, *Skapandets rätt: Ett kulturvetenskapligt perspektiv på den svenska upphovsrättens historia* (Daidalos 2009).

<sup>25</sup> SOU 1937:20 (n 18).

<sup>26</sup> 'kränkande för den nordiska musikkulturen'. Ulrika Wennersten, *Immateriellrätt och skydd av samhällsideal: En studie av klassikerskyddet i upphovsrättslagen och undantaget i varumärkesrätten, mönsterrätten och patenträtten för allmän ordning och goda seder* (Lund University 2014); Levin (n 7).

<sup>27</sup> Johan Fornäs, *Moderna människor: Folkhemmet och jazzen* (Norstedts 2004).

<sup>28</sup> Mezey (n 11) 45.

<sup>29</sup> § 45.

<sup>30</sup> 'De uttalanden som görs i förarbetena om klassikerskyddets omfattning avser uteslutande verk som utsatts för bearbetningar, förändringar eller förvanskningar. Det finns enligt domstolen inte något i förarbetena som talar för att klassikerskyddet skulle vara avsett att även omfatta den situationen att ett verk återges i oförändrat skick i ett sammanhang som ur allmänkulturell synpunkt framstår som stötande' [2021] PMT17286-19, (n 1) 21.

example of what Mezey means when she argues that ‘legal and cultural meanings are produced precisely at the intersection of the two domains.’<sup>28</sup> In this case, legal and cultural discourses about aesthetic values interact in a joint articulation of the necessity to protect high culture against the threat of commercialism and popular culture; a stance that can essentially be seen as a reaction against the forces of modernity that culminated in the postwar years. The subsequent applications of the protection of classics, leading up to the *Nordfront* case on the other hand show that neither the law nor the cultural values with which it is enmeshed are static, but work as a legal/cultural system that, as Mezey puts it, ‘order and reorder meaning.’<sup>29</sup>

It is significant that the first case regarding a violation of § 51 that made it to court did not concern the kind of popular cultural or commercial adaptations addressed in the preambles of the Copyright Act, but was a reaction against an ultraconservative use of a Nordic literary heritage. The case was presumably carefully chosen by the Swedish Academy which had been grappling with how to manage the protection of classics for decades. Calling on the protection of classics to challenge a nationalistic use of canonized works could be seen as an attempt to use a conservative tool against reactionary forces. In the press release, the Academy argued that it had sued *Nordfront* hoping for the court to clarify what could be considered a violation of the ‘interests of spiritual cultivation’.

Turning to national socialism, one of the most blatant violations of current social and cultural values, comes across as an attempt to probe the limits of what could be defined as offensive to interests of spiritual cultivation. Returning to Levin’s observation that the protection of classics cannot be enforced without a ‘distinct and common understanding of culture’, it appears that the Swedish Academy was trying to establish egalitarian and democratic values as such a common cultural understanding in the *Nordfront* case. The court, however, discarded the charges on the grounds that the works had not been adapted and, consequently, § 51 did not apply even if the work had been published ‘in a context that from a general cultural perspective appears to be offensive.’<sup>30</sup> Thus, while the court agreed that the context is offensive, it evaded

the question of how to define the ‘interests of spiritual cultivation’ by ruling that the way in which the works are rendered does not qualify as a violation of § 51.

The verdict in the *Nordfront* case takes us back to square one, where we still lack clear guidelines of how to apply the protection of classics which now comes across as more anachronistic than ever. In light of this, the Swedish Academy’s choice of words when it argues that the protection of classics needs to be ‘modernized’, might not be incidental. It can be read as an acknowledgement that the protection of classics is out of date and a call for the law to adapt to the processes of cultural change that the legislators tried to defer in 1956. The *Nordfront* case thus highlights the need to reorder legal meaning to fit a contemporary common cultural frame of reference. The question is if and how a provision like the protection of classics, that was formulated to maintain a hegemonic understanding of taste in the monocultural Swedish society of the 1950s, can be applied at a time characterised by heterogeneity and multiculturalism. Here we are not only grappling with a legal dilemma but also with a cultural one and the analysis of law interacts with that of heritage, power and cultural change that occupies other disciplines such as Critical Heritage Studies, Cultural Studies and Postcolonial Studies.

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