The State security agency and paramilitary collusion in Colombia

The case of the Colombian national security agency 'DAS' is infamous. The agency acted illegally against unionists and human rights defenders by intercepting communications, including those between the CUT and CTC national union centres and several of their member unions. What separated the Colombian case from the kind of surveillance encountered in other countries was that the names of Colombian trade unionists weren't used to exclude them from employment prospects. They were handed to paramilitary organisations. In the Colombian context, where thousands of trade unionists have been murdered, was tantamount to a 'death list'.

A scandal exposed

On 21 February 2009 the popular weekly news and current affairs magazine Semana unearthed the DAS scandal. 'The Colombian intelligence agency', the paper announced, 'is out of control. It is illegally tapping journalists, judges and politicians and its services have been used by drug dealers, paramilitaries and guerrillas'. On the heels of Semana's explosive revelations both the Procuraduria (Attorney General's office) and the Fiscalia (Prosecutor's Office) opened investigations into the activities of DAS, with the Fiscalia seizing control of the DAS premises. It was subsequently revealed that DAS security videos showed DAS agents attempting to remove numerous files and boxes from the agency just prior to the arrival of investigators from the Fiscalia.

The subsequent series of investigations and prosecutions were complex, and the political implications were profound: DAS Director Jorge Noguera Cotes was a close ally of then President Álvaro Uribe Vélez. The intrigue gripped the Colombian media (no strangers to appalling political scandals). President Uribe continued to back his man Noguera for months after Semana broke the story. Ultimately, however, the magazine's claims were made out. More than 50 DAS officers were prosecuted in the fallout from the exposure of the scandal. Dozens were convicted and sentenced. The agency's Director was first barred from holding public office and was subsequently convicted and sentenced to a prison term of 25 years.

The extent and objectives of surveillance

The surveillance was extraordinarily widespread, plying into the daily lives and legitimate activities of trade unionists, human rights workers, lawyers, and journalists. Papers that have emerged during the legal process show that DAS officials attended public meetings on human rights, made records of what was said in seminars, monitored publications, tracked book launches, noted the travel arrangements and personal appearances of human rights activists and journalists, and sent DAS security reports to the government.

In context: a site of grave trade union rights violations

Colombia is a site of severe violations of the right to freedom of speech, assembly, and security of person. Between 1986 and 2009 more than 2500 trade unionists were killed. The exact numbers of violations are disputed, but even the figures claimed by the Government are strikingly high. The murder rate has decreased significantly in recent years. During 2012 20 trade unionists were killed, while in 2013 either four (ITUC figures, submitted to the ILO’s Committee of Experts on the Application of Conventions and Recommendations (‘CEACR’), in preparation for their 2014 report) or 26 (figures from the national trade union school, ENS) trade unionists were murdered. The ITUC claims are the lowest figures since 1986, far below the peaks reported in years such as 2002, when 184 trade unionists were reported murdered in a single year. However, the ENS figures suggest a much worse situation, and indicate that killings may have increased from 2012. Whichever figures are used, it must be noted that the 2014 CEACR report notes that while the murder rate has decreased the level of threats, displacement, and other forms of harassment has actually increased.

The other grave and persistent problem of impunity is also said to be in retreat, with large increases in the numbers of persons convicted being reported by the Government. Here too there are many contradictions. Many of the cases in which the Government boasts that convictions have been reached are not recognised as trade union cases by the trade unions. And, conversely, many of the cases claimed as trade union cases by the trade unions are not accepted as such by the Government. The overwhelming problem currently is that the spread of disinformation and the manipulation of statistics have been taken to a level of unparalleled sophistication.

At the time of the DAS scandal the situation was much clearer: the level of threat against trade unionists in Colombia was exceptional and by far higher than in any other country in the world. Questions as to why Colombian trade unionists are targeted and who is responsible for their murders are too complex to be addressed in detail here, but there are two key roles that trade unions play, which bring them into conflict with specific identities. The first is their role in workplace representation and bargaining, which brings them into conflict with the interests of employers, investors, shareholders and landlords. The second is in their public role as outspoken activists and advocates for social interests more broadly, which brings them into conflict more directly with the interests of the authorities. One thing that is clear is that there is a widespread problem of public stigmatisation of trade unionists and their work. Two UN Special Rapporteurs have found that the State has contributed directly to this stigmatisation.
requested financial and other information on trade unionists and human rights lawyers.

In the legal process that is now taking place against the DAS the inquiry has uncovered evidence of a sophisticated disinformation campaign targeted against NGOs and human rights institutions. The campaign has been implemented by techniques (described by the agency’s own internal documents, with extraordinary frankness) such as ‘sabotage’. Details of the campaign, including a list of operations and objectives, were published in in December 2009 in Colombia’s second largest daily newspaper, El Espectador.

In one such operation (‘Transmilenio’) an entire operation was apparently given over to targeting NGOs, the operation’s very title a bizarrely clear yet oblique reference to one specific NGO, the lawyers’ collective CAJAR. The stated objective of this operation was ‘to neutralise the destabilising actions of Colombian and international NGOs. The objective is to discover links with narco-terrorism organisations’. The authors of the present article helped ICTUR to co-sponsor projects with CAJAR and the Urèn operation Transmilenio was in progress. We are astonished and sickened to contemplate that both public funds and the dedicated time of security officials were apparently set aside in an attempt to ‘discover’ links between those of us engaged in such work and ‘narco-terrorism organisations’.

But Operation Transmilenio was no one-off. Similarly jaw-dropping schemes were mapped out across a range of further operations. One of these mentioned the CAJAR collective specifically, by name, as the direct target of the operation. Others were apparently aimed at a whole host of other local and international actors involved in human rights work in or on Colombia. Quoting DAS internal documents, the El Espectador exposé revealed the extent of these operations:

**Operation Print:** the objective is to prevent the publication of books. The strategy: sabotage and pressure. The action: public services, distribution lorries, threats, legal war.

**Operation Arauca:** the objective is to establish links between the Colectivo de Abogados José Alvear and the ELN. The links will be ‘neutralised’ by searching homes.

**Operation Interchange:** the objective is to neutralise the influence of the Inter-American Court of Human Rights. The strategy: to legitimate and sabotage. The action: to work with foreign intelligence services, press releases, CAJAR associations on internet web pages and legal war.

**Operation Europe:** the objective is to neutralise the influence of the European legal system: the Human Rights Commission; the European Parliament, the Office of the High Commissioner for Human Rights; national governments’ (13 December 2009).

Several DAS officials have accepted that unionists were the object of ‘intelligence work’ and this information was included in their database. People working with other international human rights organisations were also targeted, not only in Colombia, but in Europe as well. UN staff were followed. Astonishingly, the very same agency that was monitoring trade unionists and passing information to paramilitary death squads was also responsible for supplying bodyguards under the trade union protection programme.

**Moving on?**

In November 2007 the Attorney General’s office dismissed Noguera from his position with the DAS and banned him from holding public office for a period of 18 years. In 2010 the UN Special Rapporteur on the situation of human rights defenders visited Colombia to inquire into the human rights background to a series of major scandals, including the DAS case.

The Special Rapporteur was deeply troubled to learn about the illegal activities of the now defunct Special Strategic Intelligence Group G3 within DAS, which operated from 2003 and 2005. The Technical Investigation Body of the PGN, in charge of shedding light on these activities (and sanctioning those responsible), delivered a preliminary report on these illegal activities, on the basis of 104 DAS files. From this report, it transpired that G3 was involved in: phone wiretapping, interception and recording of e-mails of trade unionists, national and international NGOs; harassment and retaliation; surveillance of prominent human rights defenders and their families; and surveillance of the movements of Susana Villarán, the Special Rapporteur for Colombia of the IACHR during her visit to the country in 2005.

Noting that prosecutions were well underway at the time of her visit the Special Rapporteur also made the following comments in relation to the closure of the DAS, the prosecution of those responsible for illegal activities, and in relation to the future of Colombia’s intelligence services:

The Special Rapporteur welcomes the current proceedings by the AGO of at least 40 DAS civil servants, including four former directors. She was particularly disturbed to learn that some information illegally obtained by DAS had been transmitted to paramilitary groups in the form of a list of defenders, which had led to the killing of four human rights defenders. She further welcomes, in addition to the disciplinary investigations undertaken by the PGN, a series of internal disciplinary measures to determine accountability within DAS. She hopes to be fully apprised of the final outcome of all these investigations and prosecutions. Finally, she notes the President’s announcement that DAS will actually close down and a new intelligence agency established. She would like to be further fully apprised on the structure and functioning of this new agency once it has been established. The Special Rapporteur remains preoccupied, however, about the possibility of on-going surveillance.

In recent years further charges have been brought against Noguera, some of which have failed on technical grounds, but the main allegations are proven. On 14 September 2011 Noguera was found guilty by the Supreme Court of Colombia of a number of offences arising from the DAS spying scandal. He is currently serving a 25-year prison term for his role in the affair. In October 2011 President Santos dissolved the DAS and announced a new intelligence agency. Whether it will be an improvement on its predecessor remains to be seen.