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Murder of Guatemalan Civil Servant Reveals Lack of Compliance with Private-Security Law

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On July 3, well-known Guatemalan civil servant and feminist activist Patricia Samayoa Méndez was shot dead in a pharmacy by the establishment’s private security guard, who later barricaded himself in the pharmacy and attempted to shoot the police officers who were trying to arrest him. This case has highlighted that a new law imposing tougher sanctions on private security companies is not being properly enforced.

Security guard Mynor David Guevara Tena initially claimed that he had accidentally fired his shotgun after observing a customer acting suspiciously, leading him to believe that the pharmacy was being robbed. However, recently released CCTV footage has revealed that Samayoa was the only customer in the establishment and that Guevara shot her in the chest at point blank range for no apparent reason.

The incident occurred during Guevara’s first day at work in that establishment, and witnesses have reported that prior to the shooting he appeared agitated, which suggests he was possibly suffering from mental-health problems.

Samayoa, 59, was a well-known civil servant and women’s rights activist. Her murder has caused outrage and has highlighted the government’s inability to effectively oversee private security companies and ensure compliance with the law.

Guevara worked for Shield Security, a large security company that is duly registered with the Interior Ministry but which has failed to abide by the law and has been sued for infringing on labor laws and for failing to account for a missing weapons arsenal.

New law not being enforced

Samayoa’s murder has called into question whether a law imposing more stringent regulations on private security companies that came into force in October 2013 is really being enacted. The new regulations include sanctions for companies that operate illegally, the obligation to provide the names of company shareholders, and, most important, measures to prevent former Army and police officers who have been expelled for misconduct from being employed by private security companies. These measures seek to curb abuses reported in recent years in Guatemala’s security industry.

In the past few years, Guatemala’s soaring levels of crime and violence (43 murders for every 100,000 people, according to the UN) have fuelled the growth of a booming private security industry (NotiCen, Feb. 2, 2012).

A study published by the Asociación para la Investigación y Estudios Sociales (ASIES), a local think tank, found that the country’s first security companies were created during the 1960s. Three decades later, after the Peace Accords were signed in 1996, private security had become a fast-growing
business as the Army was gradually downsized in compliance with the accords, and many retired high-ranking Army officers set up private security companies.

Whereas, in 1990, there were 55 legally registered private security companies in Guatemala, there are now 148, according to the newly created Dirección General de Servicios de Seguridad Privada. A UN report published in 2009 said there are 106,700 legally registered private security agents in the country, more than three times the number of agents reported by the largely understaffed national police force.

Guatemala has 30,000 police officers, of which 4,000 are assigned to administrative matters and the rest are divided into two 24-hour shifts for street patrol, meaning only 8,000 officers are available on a day-to-day basis to provide security to a population of 12 million Guatemalans (641 inhabitants per police officer). By comparison, Costa Rica has 350 inhabitants per police officer; El Salvador, 332; Nicaragua, 557; Panama, 195; and Haiti, 1,889.

And as the industry booms, so do the profits. A report published by the UN Development Programme (UNDP) in 2006 said that large businesses spend US$377.9 million a year on private security. Guatemalan civil society—including gated communities, the business sector, and individuals who employ bodyguards and security agents—spend US$574 million a year on private security services, an amount that more than doubles the US$251 million yearly budget allocated to the national police force. Thus, the UNDP and other international organizations have argued that the functions of public security institutions are being increasingly displaced to the private sector.

Bogus companies
Another cause for concern is the increase in bogus private security companies that are not duly registered with the Guatemalan authorities. A study published by the German Institute of Global Area Studies in 2010 said that approximately 100 private security companies are not properly licensed and a number of them have been accused of a series of offences ranging from employing underage boys as security agents to failure to pay agents the minimum wage or provide proper training.

Even well-known private security companies have failed to implement a stringent staff-selection process. In 2011, 122 security agents were prosecuted for crimes including homicide, grievous bodily harm, drunken disorder, and illegally carrying weapons. A case in point was the murder of 23-year-old Luisa Fernanda Fajardo López in July 2011. As she exited a gym in Guatemala City, Fajardo was shot dead by the establishment’s private security guard after she purportedly refused his advances. The investigation revealed that the security guard, Rosalio Pineda Pernillo, had been hired by Orion, a well-known and legally registered firm, even though he had a criminal record and had been previously prosecuted for theft and for illegally carrying weapons. The company denied any responsibility for Fajardo’s murder and stated that security agents were responsible for their own actions.

In an attempt to regulate the security industry and crack down on bogus companies, in November 2010, the Guatemalan Congress passed a new law (Ley que Regula los Servicios de Seguridad Privada) that replaced the previously existing Ley de Policías Privados. However, it did not come into force until October 2013, when the necessary "regulation" or reglamento was approved.

The new law establishes a 12-year prison sentence and fines of up to US$12,900 for the owners of illegal private security firms and creates a special bureau, the Dirección General de Servicios
de Seguridad Privada, which belongs to the Ministry of the Interior, in charge of carrying out regular inspections, enforcing the law, and implementing standardized training procedures for all companies. A hotline was also created, allowing citizens to report abuses as well as the existence of bogus security companies.

Another important provision makes it compulsory for private security companies to disclose the names of their shareholders, directors, and administrative staff, which cannot include active members of the police, the armed forces, or the intelligence services. Retired members of the public security forces must now wait for at least three years before they can seek employment in the private security sector and they must prove that they were not expelled for committing an offense. Companies are also required to provide a full list of the agents under their employment, weapons inventories, and a training session log. To protect security agents’ rights, companies must provide life insurance for at least 15 minimum wages and must have third-party insurance for a minimum of US$19,400.

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