

# Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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## **RIGHT TO LIFE AND HUMANE TREATMENT**

### **Community Policing Groups Emerge**

12.01.07 Citizens in the department of Huehuetenango have formed at least sixty community policing groups, known as "Civil Security Groups," in response to the increase in violence and crimes in the region. Villagers, frustrated by impunity and corrupt authorities, are patrolling the streets of their communities each night. Some participants, to protect their identities, cover their faces with ski masks or bandanas and most carry sticks and machetes as weapons, while others illegally bear firearms. The Human Rights Ombudsman's Regional Office (PDH) condones the use of community policing groups to make up for the government's deficiencies in security matters, but the PDH has made it clear that rights must still be respected. Despite reports of more than sixty Civil Security Groups, authorities have only registered twenty-eight.

### **Activists Live in Danger**

12.10.07 Human rights and political activists live in increasing danger in Guatemala. More than 250 attacks have been registered against human rights defenders and political operatives this year alone. Moisés Miranda García, a political activist for the Guatemalan National Revolutionary Union (URNG), was recently murdered in El Tumbador, San Marcos. Human rights activist Amandine Fulchiron, a member of the Consortium of Actors for Change, faced recent death threats. Fulchiron works with the Consortium and the Community Studies and Psychosocial Action Team (ECAP) accompanying women that suffered sexual violence during the armed conflict to help them recover and

reintegrate back into their communities. Numerous other attacks and acts of intimidation against human rights and political activists have occurred in recent months. The assaults are an attempt to impede the defense of human rights and the work for empowerment, dignity, and recovery of the Guatemalan people. Human rights organizations and political parties have denounced these attacks and urged the National Civil Police (PNC) and the Public Prosecutor's Office (MP) to investigate the cases and bring those responsible to justice.

### **UN Report Cites Increasing Violence**

12.11.07 Homicide rates in Guatemala have steadily risen since 1999, making it one of the most violent countries in Latin America, according to a recent report by the United Nations Development Program (UNDP). In 1999, there were 2,655 homicides registered whereas there were 5,885 murders recorded in 2006.

In addition, the UNDP report included results of its survey of 2,725 Guatemalans living in and around Guatemala City between 2005 and 2007. The survey indicated that nearly forty percent of respondents were victims of some type of violence in the previous six months. Despite this occurrence, nearly three quarters of the victims of violence never reported the crime to authorities. The majority of respondents facing violence (59%) indicated that there was "no point" in reporting the crime because it was not serious enough or because they feared reprisal.

The survey also asked about citizens' perception of security. Nearly forty-five percent of respondents stated they felt "very unsafe" whereas only 5.7% of those participating stated that they felt "very safe." Forty-six percent of all women reported feeling very unsafe and 43.5% of men said they felt very insecure.

Roughly sixty-two percent of respondents ranked security and violence as their number one concern, whereas twenty-four percent indicated unemployment as their primary concern. According to the UNDP report, levels of violence tend to be lower in the poorest municipalities where there is a majority indigenous population. Furthermore, the report cited that the murder of women has increased at a higher rate than the general homicide rate. Youth need to be especially aware since they are the most common victims of violence.

The report also suggested that Guatemala needs to implement better gun control laws, since other countries have seen a reduction in homicides from stricter firearm regulations.

## WOMEN'S RIGHTS

### Crimes Against Women Go Unpunished

12.08.07 While generalized violence and impunity continue to plague Guatemala, the increase in crimes against women is of particular concern. Ninety-seven percent of gender-based crimes against women, including murder and sexual assault, go unpunished according to a recent report by the Guatemalan Institute of Comparative Studies in Criminal Sciences (IECCP). IECCP tracked the process of crimes committed against women through the criminal justice system and found that the overwhelming majority of cases (97%) never go to trial because justice officials working within the system lack interest in pursuing the cases.

In just one year, the Public Prosecutor's Office (MP) registered 3,945 cases of rape, 738 cases of statutory rape, 1,351 cases of kidnapping, and 414 cases of sexual molestation. It is estimated that these figures reflect only a quarter of all the crimes committed against women, according to the IECCP. Most concerning is the more than 3,000 cases of murder against women between 2000 and 2007, fewer than one hundred of which have gone to trial.

Justice officials are members of the socio-cultural reality of Guatemala, which continues to categorize women as second-class citizens, according to IECCP researcher Kristin Svendsen. In fact, in many cases victims and their relatives are encouraged by justice officials to withdraw the charges.

### Women and Girls Suffer Most from Trafficking

12.08.07 In reference to the campaign to eradicate violence against women, Vice Minister of Foreign Relations Marta Altolaguirre admitted that the Guatemalan government has not focused enough attention on stemming the trafficking of women and girls. "Guatemala is a country where women are still second class citizens who become 'tools of the trade' for others. In some cases, families even rent out their children to pay debts," Altolaguirre commented. The Vice Minister indicated that the government has been unable to stop trafficking because there are no deterrents for traffickers since they generally go unpunished. She stated that the Public Prosecutor's Office (MP) should create a special unit to investigate human trafficking cases.

### Reproductive Health Services Forgotten

12.10.07 A coalition of more than one hundred organizations, named the Coordination of Political Actions for Women's Health and Development, called on the incoming administration to take concrete, effective steps to address the need for an increase in reproductive health services. The coalition reported that thirty-nine percent of indigenous women do not have access to family planning information or services and that three quarters of all women, especially those living in rural areas, have never had a pap smear, in part because they do not have the necessary resources to travel to a local health center. The organizations indicated that the government has failed to approve a 2008 work plan to address this issue and called on the government-elect to appropriate adequate funding for family planning and reproductive health services.

## CHILDREN'S RIGHTS

### Child Abuse Continues in Schools

12.07.07 Reports of child abuse in schools are up thirty percent from last year, according to Nidia Aguilar, member of the Human Rights Ombudsman's Office (PDH). With more than 147 documented cases thus far in 2007, the PDH is very concerned. Cases of child abuse at school have been categorized into physical, verbal, and psychological abuse. Examples of the latter violence include

children who were denied their grades or the opportunity to take their final exams because their parents were behind in tuition payments. Amatitlán, Villa Canales, San José Pinula, and Villa Nueva have been identified as the municipalities with the highest rates of child abuse in schools.

### **Congress Approves Adoption Law**

12.11.07 The Guatemalan Congress approved a new adoption law in an extra-ordinary session held in early December. The adoption law was voted into effect with 109 votes in favor and one against, out of a possible 158 votes. Only Julio Lowenthal, an independent legislator, opposed the ratification of this law, arguing that the judicial system should be in charge of the adoption process. Diplomatic representatives from several countries attended the session to ensure that the new adoption law was approved.

The new legislation includes the creation of the National Adoption Council (CNA), which will regulate the entire adoption process beginning December 31, 2007. This law brings Guatemala into compliance with the Hague Convention on International Adoptions, ratified by Guatemala in May. The United States plans to be in compliance by April 2008 if not sooner.

It is hoped that the new law will halt the illegal sale of minors and overcome the other problems created by the current system. The new process will be more centralized, almost entirely eliminating the use of notaries and the majority of costs associated with adoptions, thereby removing the lucrative nature of current adoptions for adoption lawyers. When the CAN commences its work, it will ensure that family judges receive prior consent from the biological parents and clear each child or adolescent for adoption. Biological parents will be required to wait at least six weeks after the birth of a child to give him or her up for adoption, as well as be required to receive counseling during that period. In addition, the family that places a child up for adoption will no longer be eligible to receive payment for doing so.

Once the child has been cleared for adoption, the CNA must take into account the best interests of the child and search for the ideal parents for each child, giving priority to Guatemalan families. If there are no suitable Guatemalan families available, then an international adoption can take place. All private

agencies that are dedicated to child welfare and foster care will now be supervised by the CNA.

Attorney Susana Luarca, from the Defenders of Adoption Association, warned that her organization would challenge the law before it went into effect. She called the Ambassadors' presence during the vote "racist" and "xenophobic," and accused them of interfering. Luarca questioned the government's ability to attend to children in state-run orphanages and she argued that outlawing adoptions done by notaries would also cause foster homes to disappear since many of them are paid for by lawyers out of the adoption fees that they charge.

Mario Gordillo, head of the Attorney General's Office (PGN), estimated that approximately 1,200 adoptions initiated by US couples do not fit the new requirements and six hundred more will need further analysis. Nevertheless, in accordance with the passage of the new law, these cases will be grandfathered in under the existing regulation.

### **Code of Behavior Signed to Protect Children**

12.11.07 The Guatemalan Tourism Institute (INGUAT), the United Nations Children's Education Fund (UNICEF), and the International Expat Guatemala Network mutually developed and signed the Code of Behavior for the Protection of Vulnerable Children in order to address the sexual exploitation of children. The Code is directed towards entities that work in the tourism sector. Guatemala has become increasingly known for its sexual tourism since prostitution is legal and the sexual exploitation of children has become part of this trade.

## **MIGRANT RIGHTS**

### **Immigrants in US Face Serious Problems**

12.04.07 Guatemalan immigrants who remain in the US without proper documentation face increasing problems, according to Guatemalan Foreign Minister Gert Rosenthal. More and more Guatemalan immigrants feel insecure as a result of the constant round-ups and arrests by US immigration officials throughout factories and homes, Rosenthal added.

According to the International Organization for Migration (IOM), roughly 40,000 undocumented Guatemalans attempt to migrate to the US each year, but only half of them succeed. IOM statistics indicate that 1.2 million Guatemalans live in the US,

half of them without proper documentation. So far in 2007, 249 flights have returned 21,885 Guatemalans to Guatemala. Santos Cuc, the Director of Immigration, reported that this is a record number of deportees and he estimated that six flights per week would continue to arrive with deported Guatemalans. The total number of returnees may reach up to 23,000 by the end of December.

## **SOCIAL, ECONOMIC, AND CULTURAL RIGHTS**

### **World AIDS Day Commemorated**

12.02.07 In commemoration of World AIDS Day, a variety of human rights organizations and individuals with HIV/AIDS held a demonstration in Guatemala City's central plaza to demand that Guatemalan authorities respect their rights. Demonstrators filled the plaza with red candles to honor those who have died from the disease and hung banners from the National Cathedral. The protestors called on the Guatemalan government to allocate sufficient funds to treat HIV positive patients, provide more health centers in outlying areas of the country, make medications more readily available, begin informational campaigns on how to prevent HIV/AIDS, and eradicate the social and labor discrimination against the HIV positive population.

During the activity, participants handed out information on how to best prevent the spread of HIV/AIDS through the use of condoms. According to Mariel Castro, the director of the National Program to Fight AIDS, there are approximately 120,000 HIV positive Guatemalans, but not all of them are aware of their status and cases have been on the rise in recent years.

### **Food Model Creates Dependency**

12.05.07 In 2006, a United Nations' special envoy on the right to food made several recommendations for Guatemala concerning its charity-based model of giving food to citizens. One year later, the International Center for Human Rights Research (CIIDH) determined that the Guatemalan government has failed to heed the UN's recommendations and has done little to promote the development of sustainable food sources. According to CIIDH, the current charity-based model of giving food has created a dependence on the food and the

Guatemalan government has not done enough to help citizens develop sustainable food sources when the government assistance runs out.

The CIIDH also noted that the decreased production of staple goods (bean production down 26% between 1990 and 2005, rice production down 22%, and wheat production down 80%) has also contributed to food dependency. The CIIDH highlighted that the Ministry of Labor only assigned two percent of its Q68 million budget (US \$9.06 million) for the promotion of employment and health rights, while spending forty-four percent of its budget on recreation programs.

Another serious factor that is increasing food dependency is the fact that overall salaries have not been increased to meet the rise in the cost of living. Representatives from the National Coordination of Campesino Organizations (CNOC) urged the government-elect to give priority to programs that provide food to citizens, but with a sustainable development focus.

### **Disaster Funds Not Spent**

12.06.07 Half of the Q500 million (US \$66.67 million) placed in a trust at the National Credit and Loan Bank (CHN) to be used to help the thousands of victims affected by Hurricane Stan in October 2005 has not been spent despite more than two years since the devastation and destruction. The money was intended to be used as emergency and reconstruction funds for those who lost their homes in the disaster. Nonetheless, much of what was promised to victims has not yet been delivered. If the money is not disbursed by the end of December, it will be returned to the general fund.

### **Guatemala Free From Measles and Rubella**

12.08.07 The Pan American Health Organization (OPS) recently certified Guatemala as a country free of measles, rubella (commonly known as German measles), and German measles' congenital syndrome. During April and May of 2007, the Ministry of Public Health and Social Assistance, in conjunction with the Guatemalan Social Security Institute (IGSS) and international organizations, launched a nation-wide vaccination campaign against these diseases, focusing on men and women between the ages of nine and thirty-nine covering at least 95% of all municipalities. More than 7.3 million individuals were vaccinated. After the

campaign ended, a group of immunization experts from the OPS and the World Health Organization (WHO) certified the country.

### **Ministry of Labor Office Taken Over**

12.10.07 Members of the Labor Union of Guatemalan Workers (UNSITRAGUA) took over and occupied the Inspector General's Office of the Ministry of Labor in Guatemala City in order to pressure authorities to reinstate union workers. Forty unionized employees on the "Olga Maria" banana plantation in Tiquisate, Escuintla, a subsidiary of the transnational company Chiquita Brands International, were recently fired. The workers' situation was also reported to the International Labor Organization (ILO).

## **RIGHT TO JUSTICE**

### **Dos Erres Case Paralyzed in Court**

12.07.07 Twenty-five years after the Dos Erres massacre, the case in Guatemalan courts has stalled. A quarter century ago on December 7, 1982, the Guatemalan army arrived in Dos Erres, La Libertad, Petén, and killed more than 250 people, including sixty-two children. Thirteen years ago, after an exhumation was carried out, the case was brought to the courts. Nonetheless, thirty-five different motions and appeals have paralyzed the case, despite the fact that two Kaibil soldiers who had participated in the massacre provided testimony. The Public Prosecutor's Office (MP), the Supreme Court of Justice, and the Constitutional Court (CC) have been complicit in the paralysis of the case and have made no effort to resolve the appeals.

Several activities were held by Guatemalans to mark the twenty-fifth anniversary of the Dos Erres massacre. The Association of the Families of the Detained and Disappeared of Guatemala (FAMDEGUA) paid homage to the men, women, and children whose bodies were thrown down a well by soldiers. The well is now called the "Well of Shame."

### **CICIG Will Be Risky Work**

12.07.07 Carlos Castresana, the Commissioner of the International Commission against Impunity in Guatemala (CICIG), recently told representatives from a variety of human rights organizations and the international community that the CICIG's mission

will be "a risky endeavor" that will need lots of work. He stated that some of the first cases that the CICIG will investigate include cases of discrimination, the difficulties of indigenous people to access the justice system, and femicide cases.

### **Indigenous Communities Demand Justice**

12.07.07 Several indigenous communities in Cubulco held a peaceful march through the streets of Salamá, Baja Verapaz, demanding that departmental authorities investigate the murder of Juan Raymundo Alonzo, an indigenous leader. Alonzo was killed last August during a demonstration held in front of the local mayor's home to demand that he explain his poor administration of municipal resources. Security officials met the protesters with bullets, killing Alonzo at the scene. Two other adults and a child named Rolando Calo Ortiz were injured as well. Calo Ortiz is now paraplegic.

### **99% of Murders in 2007 Go Unpunished**

12.09.07 Of the 3,114 cases of homicide in Guatemala from January to November 2007, 99% of the murders remain in impunity, according to the Mutual Support Group (GAM). GAM's statistics include 364 women who have been killed so far this year. GAM reported that other crimes also go unpunished. Only 439 or 0.15% of the 295,000 crimes that have been brought before the courts have resulted in a conviction or sentence.

### **Indigenous Leaders Acquitted in Mining Case**

12.12.07 Five of the seven campesino leaders in San Marcos were acquitted of charges filed against them by the Montana Mining Company. The seven campesinos had been accused of causing injuries to two security agents from the Montana mining company, as well as instigating violence and coercion. The Public Prosecutor's Office (MP), acting on behalf of the mining company, erroneously charged Fernando Pérez Bámaca, Francisco Bámaca Mejía, Pedro de León Castañón, René Pérez Velásquez, Antonio Bámaca Hernández, Cristóbal Pérez Eduardo, and Patrocinio Vicente López. The court in San Marcos acquitted five of the leaders and handed down a guilty verdict for two of the campesinos (Fernando Pérez Bámaca and Francisco Salomón Bámaca Mejía), giving them a probationary two-year

sentence commutable by paying US \$ 0.67 per day. The Montana Mining Company initiated the charges against the leaders as a result of the injuries allegedly sustained by two employees and because the campesinos blocked the access road to the mine to protest the environmental damages caused by the mining activities.

The Rigoberta Menchú Foundation, who defended the campesinos, expressed their concern over the recent trial. Lawyers for the defense indicated that the MP did not act objectively during the trial and that the process itself was fraught with inconsistencies. They also said that the MP was clearly protecting the interests of the mining company. The Foundation's director, Eduardo de León, indicated that the MP has tried to criminalize the people's right to protest a situation that has harmed them. The campesinos complained that they had been tricked by Montana into abandoning their land.

## **RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT**

### **Waste Treatment Plant Opened to Save Lake**

12.03.07 President Óscar Berger inaugurated a new solid waste treatment plant, a new recycling plant at the mouth of the Villalobos River, and new plans to remodel the Las Ninfas recreational park at Lake Amatitlán to the south of Guatemala City. All of these public works are designed to improve the environment and quality of life for the local inhabitants in one of Guatemala's most heavily populated areas. Lake Amatitlán is a strategic location since it may eventually be used to supply water to the municipalities in the department of Guatemala. The new solid waste treatment plant will have the capacity to handle five hundred tons of garbage per day. When the plant is fully functional, the government anticipates that it will reduce the volume of solid waste dumped in the area by ninety percent. The new recycling plant will be able to handle 125 tons of materials per day, including cardboard, glass, and plastic, and another 330 tons of organic material will be processed into 100 tons of fertilizer.

### **Guatemala Sued Over Mining Issue**

12.06.07 Representatives from the Mayan

community of Sipicapa, San Marcos filed charges and a suit in the Inter-American Human Rights Court (IAHRC) against the Guatemalan government for not respecting the rights of the people who oppose mining in the region. Communities of San Marcos voted in a popular referendum in June 2005 that they were opposed to mining activities in their territory. Nonetheless, the Constitutional Court recently ruled in May that the results of the grassroots referendums were non-binding. As a result of the government not respecting the rights of the indigenous peoples through the referendums, community leaders decided to take the case to the IAHRC.

Social organizations claimed that the rights of the indigenous peoples were not taken into account and that the International Labor Organization (ILO)'s Agreement 169 concerning the rights of the indigenous was violated. Rigoberto García, from the Council of Organizations for the Observance and Verification of the Rights of the Indigenous Peoples of Guatemala, argued that judicial guarantees, the freedom of speech, and the right to private property had all been violated by the government. He added that the economic interests of international companies should never take precedence over the rights of the indigenous and that the damage caused to the environment by mining is wrong.

### **Chixoy Victims to Receive Compensation**

12.08.07 Vice President-Elect Dr. Rafael Espada and current Vice President Eduardo Stein visited the village of Chitomax, Cubulco, in Baja Verapaz, where they signed a mutual agreement to identify and verify the damages suffered by communities affected by the construction of the Chixoy hydroelectric dam. Espada promised to compensate the affected families although he did not give a date for when this would occur. The compensation initiative will be sponsored by the Organization of American States (OAS) with a total of Q 1.14 million (US \$152,000).

### **Calas Asks for Investigation of Minister**

12.12.07 The Center for Legal, Environmental and Social Action (CALAS) filed a motion to the Guatemalan courts asking the government to strip Mario Dary Fuentes, the minister of the

Environment, of his immunity. CALAS alleges that the Dary Fuentes failed in his duties after he refused to release a report detailing the environmental impacts of the mining activities carried out by the Guatemalan Nickel Company (CGN) in the departments of Izabal and Alta Verapaz. CALAS presented the motion to the Chamber of Legal Protection and Immunity of the Supreme Court of Justice. At the same time, CALAS released their recent report regarding the numerous human rights violations against environmental activists. According to the Guatemalan newspaper, El Periódico, CALAS registered 121 threats, murders, and human rights violations against environmental activists from 1989 to 2006.

## OTHER INFORMATION

### Colom Committed to Human Rights

12.07.07 President-Elect Álvaro Colom received the Presidential Human Rights Commission's (COPREDEH) Human Rights Plan for 2007-2017. Colom stated that he would like to further study the plan, but is committed to honoring human rights. Ruth del Valle, who spoke on behalf of human rights activists, criticized the "unwillingness of certain officials" in the current Berger administration to respect the individual freedoms of the people. She cited extrajudicial executions as examples, allegedly carried out by the Guatemalan National Civil Police (PNC).

### Activists Recognized for their Work

12.11.07 Sebastián Toledo, the spokesperson for the Committee for the Blind and Deaf, recently received the Juan José Gerardi Human Rights Award, named after Bishop Gerardi who was assassinated in 1998. The award is given each year by the Human Rights Office of the Archdiocese of Guatemala (ODHAG). Toledo, an activist working in favor of the disabled, produces a radio show called "Guatemala for Everyone." He has worked tirelessly to promote the rights of the blind, deaf and disabled of Guatemala and has participated in international forums in Spain and South America. His achievements are particularly noteworthy since he is blind. Ana Cristina Grave and Samuel Flores, from a Project called the "Youth Corner," also received the awarded. Both are former gang members who now

direct a rehabilitation center for children and youth who are trying to leave gangs.

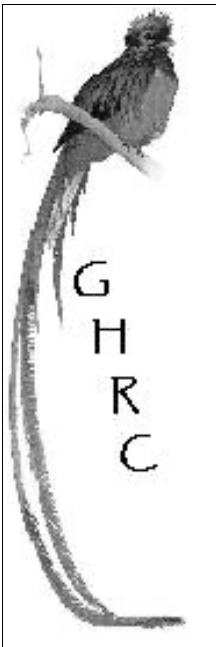
### Human Rights Situation Dismal

12.12.07 The human rights situation in Guatemala is dismal at best. More people are killed now each day in Guatemala than during the civil war. This situation is concerning many national and international human rights entities. Commemorating the fifty-ninth anniversary of the United Nations Universal Declaration of Human Rights, groups called for a reduction of social inequality, poverty, insecurity, and impunity in order to improve the country's overall situation.

Anders Kompass, head of the United Nations High Commissioner's Office on Human Rights in Guatemala, stated that taxes must be raised in order to have resources to combat social problems, an opinion echoed by Frank LaRue, the commissioner of the Presidential Human Rights Commission (COPREDEH).

Human Rights Ombudsman Sergio Morales said that even though Guatemala has made progress in honoring civil and political rights, there is still a lot of work to be done. Morales mentioned that hospitals still lack basic equipment and the educational system has high levels of absenteeism. He commented that many communities do not have adequate food supplies and chronic malnutrition affects the majority of children. The most serious violation is the right to life, coupled with a judicial system that has virtually collapsed.

The Center for Legal Action on Human Rights (CALDH) held a separate event to commemorate the occasion. More than four hundred people attended this event and they issued a statement at the end of the activity, stating that politically motivated violence in Guatemala has generated fear among the general population. They underscored that this terror serves to silence people, paralyze them, and is used as a means of maintaining political and economic power. The speakers and participants concluded that in order to overcome this fear, it is necessary to speak out against the injustices, demand justice, and share recent history with youth, communities, and the whole world.



Founded in 1982, the Guatemala Human Rights Commission/USA is a nonprofit, nonpartisan, humanitarian organization that monitors, documents, and reports on the human rights situation in Guatemala, advocates for and supports survivors of the abuses, and works toward positive systemic change.

Information in the UPDATE that is not gathered directly is culled from various sources, including the Comisión de Derechos Humanos de Guatemala, Casa Alianza, Albedrío, Amnesty International, Associated Press, Reuters, and Guatemalan news sources, such as Cerigua, Centro de Estudios de Guatemala, Incidencia Democrática, Prensa Libre, El Periódico, La Hora, and Siglo Veintiuno.

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3321 12th Street NE  
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- **Community Policing Groups Emerge - PG 1**
- **UN Report Cites Increasing Violence - PG 1**
- **Congress Approves Adoption Law - PG 3**
- **Dos Erres Case Paralyzed in Court - PG 5**
- **Indigenous Leaders Acquitted in Mining Case - PG 5**

**Insert: 2008 Colors of Guatemala Wall Calendar for Sale**