

Summary Table of Findings by Human Right

Human rights	Violation by state / infringement by Montana	Failure to respect	Respect /enhancement	Further due diligence and information gaps
Indigenous peoples rights	C1: Guatemalan government is in violation of ILO 169 due to lack of appropriate framework for prior consultation.	<p>C1: Montana carried out prior consultation efforts, but these failed to respect indigenous peoples rights under ILO 169 as they did not involve government.</p> <p>C1: Montana has undertaken consultation about new activities without involving the government; consultations without government involvement on projects that require new permits fail to respect indigenous peoples rights.</p> <p>LA3: Montana’s land acquisition process has not taken into account collective dimensions of land rights of indigenous peoples.</p> <p>LA3: Common property resources and religious and cultural practice are not addressed by land acquisition procedures.</p>	<p>L1: Significant employment of local indigenous people.</p> <p>SI2: Participatory planning processes for SDD’s social investment projects.</p>	<p>LA3: Further research required on status of collective land titles in San Miguel and Sipacapa.</p> <p>LA3: Ongoing concern about use of titulación supletorio extinguishing indigenous peoples land rights.</p> <p>SI2&3: Need to transition the FSM into a community-based foundation to fulfill IPDP/ILO 169.</p>
Women’s rights		<p>L1: Lack of policies and procedures about employment and advancement of women in the workforce.</p> <p>L1 & S2: Lack of policies and procedures to safeguard against harassment, including sexual harassment.</p> <p>LA1: Lack of policies and procedures to ensure women’s consent is obtained for land sales.</p> <p>SI3: Insufficient due diligence about negative impacts of the mine on women.</p>	<p>L1: Montana respects the right to work of women at the mine in some areas.</p>	<p>L1: Lack of information on women’s status (retention, pay equity, advancement, benefits) in the workforce to determine extent to which women’s rights are respected.</p>

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Life and security of the person		<p>S1&2: Lack of policies and procedures to address interaction with public security forces or private security contractors prior to 2006.</p> <p>S1&2: Failure to press for investigation and prosecution of Sololá incident.</p> <p>S1&2: Lack of effective procedures and grievance mechanisms to reduce risk of confrontation and violence.</p> <p>C2: Lack of consultation about security and public safety.</p>	<p>S1&2: Deployment of private security contractors respects the rights of employees.</p> <p>S1&2: Improved due diligence and performance since 2006 though implementation of VPs, including standard operating procedures, codes of conduct, screening and training.</p> <p>S1&2: Initial pressing for investigation of shooting by off-duty security guard.</p> <p>S1&2: Recent incident at Coral reflects commitment to defensive role.</p> <p>S1&2: Inclusion of PDH as observers of police action.</p>	<p>L3: Lack of employee health monitoring to ascertain causes of death of workers.</p> <p>S1&2: Lack of investigation and prosecution by state of Sololá incident and shooting by off-duty security guard.</p> <p>S1&2: Gaps remain in risk assessment and consultation about security and public safety.</p> <p>S1&2: Formal corporate policy commitment needed to support implementation of VPs.</p> <p>S1&2: Training in HR should be expanded to other departments and to cover other issues, including harassment.</p>
Freedom of expression and peaceful assembly		<p>SI2: Making social investment contingent on no social protest inhibits this right.</p>		<p>S1&2: Failure to address grievances results in increased risks when security forces intervene in social protest.</p>
Right to adequate standard of living	<p>LA2: Some land sellers have “fallen through the cracks” and ended up worse off.</p>	<p>LA2: Failure to implement a follow-up program to ensure standard of living maintained by land sellers.</p> <p>SI3: Failure to design and implement social investment projects to mitigate negative economic, social and cultural impacts.</p>	<p>LA2: Many land sellers have benefited from land sales.</p> <p>L1 & SI1: Payments and salaries for employment and contracting provide an opportunity to enhance standard of living.</p> <p>SI1: Tax and royalty payments to national and municipal government, including voluntary royalty payments.</p> <p>S2: Social investments (e.g. micro-financing projects) provide opportunities for enhancements.</p>	<p>LA2: Lack of monitoring of land sellers prevents determination of positive, neutral or negative long-term impacts of land sales.</p> <p>SI1&2: Lack of baseline and monitoring information to assess the extent of positive contributions from economic and social investments.</p> <p>SI3: Lack of assessment of direct and indirect impacts of mine’s presence on a range of human rights.</p>



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Right to health		<p>E3: Inadequate closure plan with no provision for long-term maintenance and supervision; inadequate financial assurance for closure.</p> <p>L3: Failure to respect right to health of employees through baseline testing and monitoring.</p>	<p>E2: Montana’s environmental management appears consistent with international good practice and to respect right to health.</p> <p>SI2: Social investment projects have contributed to right to health, including contribution to municipal health centre; extent cannot be determined.</p>	<p>E2: Insufficient baseline and monitoring data to determine origin of human health concerns.</p> <p>L3: Information gaps due to insufficient health baseline and monitoring of workers’ health.</p> <p>L3: Operation-wide health risk assessment is required, including a review of past exposure and incidents.</p> <p>L3: Review of adequacy of medical attention and barriers to access to medical care, including review of employee deaths in 2009 (and others that may exist).</p> <p>SI2: Insufficient baseline and monitoring information to determine extent of positive impacts on right to health.</p>
Right to water		<p>E1: Insufficient baseline to ensure no impacts to water users or to predict impacts of project expansions.</p> <p>E3: Inadequate closure plan with no provision for long-term maintenance and supervision.</p> <p>E3: Inadequate financial assurance for unpredicted closure.</p>	<p>E1: Montana’s environmental management system respects the right to water from a technical management perspective.</p> <p>E1: Creation of AMAC as a community-based monitoring mechanism is good practice.</p> <p>E1: Recent agreement with MEM for additional monitoring.</p> <p>SI2: Social investment projects in potable water systems have enhanced access to water.</p>	<p>E1: Need to complete full hydrocensus to understand and address concerns about water users and water sources in all nearby communities.</p> <p>E1: Need to complete and consult on contingency plan to protect users of Txeshive Spring.</p> <p>E1: Need for external auditing of water monitoring and environmental management plan.</p>
Right to food		<p>LA2: Failure to conduct community baseline studies or monitor impacts of land acquisition and inflation, which may make it difficult for subsistence farmers to acquire or access land.</p> <p>E3: Inadequate closure plan and financial assurance creates significant risk.</p> <p>L2: Need for further due diligence and consultation about basic working conditions, including breaks and meals.</p>		<p>L2: Require baseline and monitoring data to determine extent of impacts due to inflation in land prices.</p> <p>E2: Need to address more comprehensively the risks of mine impacts on animal health that could affect right to food.</p> <p>SI1: General improvement in standard of living from economic flows.</p>
Right to housing		<p>E2: Failure to identify risks and monitor for impacts of blasting.</p> <p>E2: Failure to identify potential responsibility for cracked houses.</p>	<p>LA1: Limited number of land exchanges provided better quality houses.</p> <p>LA1, SI1: Sale of land and local employment in many cases likely to have resulted in improved housing, but not measured.</p>	<p>E2: Lack of baseline and monitoring data about blasting and traffic.</p> <p>SI1: Lack of tracking to know extent of improved quality of housing.</p>

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Right to own property	LA1: Non-fulfillment by Montana of commitments or negotiation offers to land sellers related to jobs or contracts.	LA1: Negotiating payments for improvements on an individual basis and without independent valuations does not ensure equality of treatment. LA1: Lack of policies and procedures to ensure coercion does not occur.	LA1: No forced resettlement. LA1: Good practice of establishing a consistent, above-market price for land.	LA1: Lack of tracking of commitments about jobs, contracts or social investment projects made to land sellers. SI3: Lack of baseline data and monitoring to determine whether social programs are required to restore livelihoods of land sellers.
Right to education			L1: On-the-job training of local workers respects the right to education and supports their right to work at the mine. SI2: Social investment in physical infrastructure for education. SI2: Project supporting teacher salaries, training and scholarships.	SI2: Extent of enhancement to education through support of teachers' salaries, training and scholarships cannot be assessed due to lack of baseline data and ongoing monitoring. SI2: Improvement in school attendance is reported, but not substantiated by review of the meaning of the data.
Right to family life			L1: Steps taken to facilitate female employment, e.g. transportation, daycare facility, maternity leave, training.	L2: Risks associated with length of shift combined with travel time for workers.
Right to work		L1: Lack of policies and procedures to ensure non-discrimination in hiring, promotion, discipline and firing. L1: Lack of due process in firing. L1: Inadequate protection against harassment. L1: Lack of policies, procedures and monitoring about labour rights internally and for contractors	L1: Significant employment and contracting jobs and income. L1: Emphasis on local employment. L1: Efforts to transition temporary or rotational workers into regular employment. L1: Absence of forced or child labour. L1: Employment opportunities for women.	L1: Lack of tracking of equity and opportunity to advance, barriers to same, for women and indigenous people. L1: Review of past practices including firing to determine whether due process can be demonstrated.
Right to just and favourable working conditions	L2: Lack of pay equity	L2: Wages for some workers are below a "living wage." L2: Lack of policies and procedures and monitoring about labour rights internally and for contractors.	L2: Montana complies with or exceeds the minimum national standards for wages, benefits, leave and holidays. National standards generally conform to ILO standards.	L2: Review required of concerns about some basic conditions of work, e.g. breaks, meals, facilities. L2: Review required of length of shifts combined with travel time for workers. L2: Revised labour standards should be extended to include contractors.
Right to healthy and safe working conditions		L3: Inadequate health baseline testing and monitoring for employees.	L3: Montana is addressing past gaps in safety with steady improvements over past two years. S2: Deployment of private security contractors respects the rights of employees.	L3: Prior to 2008, probability of infringements, but insufficient information to assess extent of concern (see also right to health).



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Right to freedom of association and collective bargaining	L4: No mechanisms in place to safeguard these rights. L4: Reasonable evidence of retaliatory action against employees who attempted to form a union.			
Right to freedom of expression and to be informed		C2: Some key areas of concern and risk are not being consulted upon, e.g. land acquisition, environmental concerns, public safety issues. C2: Stakeholders do not have access to information of relevance to them or of activities that could affect them.	SI1: Transparency in payments to government; royalties, taxes, salaries, contracts. C2: Publication of annual monitoring report.	C2: Lack of tracking of consultation to demonstrate the extent to which Montana responds to stakeholder concerns.
Access to remedy		L1–4: No effective mechanism for workers to raise and address concerns. S1&S2: Lack of effective grievance mechanism has led to confrontation and escalation of violence. SI3: Failure to identify and analyze community complaints has resulted in company not addressing negative impacts. AR1: Montana’s legal and administrative challenges have delayed or impeded access to remedy. AR1: Montana’s grievance mechanism is not effective and does not meet international standards. AR2: Lack of policy and procedure to address human rights risks associated with the Guatemalan judicial system, particularly in cases of criminal prosecutions against individuals involved in protest against the mine.	AR1: Montana has contributed to capacity building efforts for regulatory agencies such as MEM. AR1: Positive actions in response to recommendations of the IFC CAO report.	