

THE PERMANENT PEOPLES'
TRIBUNAL SESSION
ON
HUMAN RIGHTS, FRACKING
AND CLIMATE CHANGE

MAY 14-18, 2018

Yachats Academy of Arts and Sciences
July 28, 2018



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HUMAN RIGHTS
ADVISORY

TribunalOnFracking.org



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The Human Rights Lens

Lenses allow us to see things more clearly, bringing aspects of the world into sharp focus.



What it is

- * What the PPT is (1979, HR, Independent, Competent)
- * What Human Rights are (moral, legal, universal)
- * What fracking is
- * What climate change is
- * How they came together
 - * *Co-organizers (Spring Creek Project, EAH, OSU)*

What it entailed

- * Five days, Fully online
- * Four pre-PPT tribunals (150+ witnesses), oral and written reports
- * Seventeen *amicus* briefs from 14 attorneys and 12 directors of 20 NGOs in seven different countries on five different continents
- * Ten judges from eight countries
 - * *selected by the PPT*
- * Nineteen presentations (30 minutes to two hours each), opening and closing arguments, opening and closing ceremonies, plus keynote



Panel of Judges

- * Alberto Acosta Espinosa (Ecuador)
- * Lilia América Albert Palacios (Mexico)
- * Andrés Barreda (Mexico)
- * Upendra Baxi (India)
- * Gill H. Boehringer (Australia)
- * Maria Fernanda Campa (Mexico)
- * Louis Kotzé (South Africa)
- * Larry Lohmann (UK)
- * Francesco Martone (Italy)
- * Antoni Pigrau Solé (Spain)



Special gratitude to:

- * John Knox opening ceremony
- * Sandra Steingraber keynote address
- * Bill McKibben Bedrock lecture
- * Julia Olson Bedrock lecture
- * Mary Wood Bedrock lecture
- * Anna Grear Bedrock lecture
- * Kathleen Dean Moore closing ceremony
- * Simona Perry Steering Group





Doubly special gratitude to:

- * Kathleen Dean Moore Spring Creek Founder
- * Carly Lettero Dir, Spring Creek Proj
- * Shelley Stonebrook Spring Creek Prog Cr
- * Emily Grubby Spring Creek intern
- * Grad students EAH Program, OSU
- * Debra Fant promotion & research
- * Jan Michael Looking Wolf Flute composition

Also:

- * Zoom.us software & training



Purposes

- * to hear, document and give voice to personal stories and expert testimony
- * to bring a human rights focus to the conversation about fracking and climate change
- * to model what a human rights case would look like in national courts
- * to model how a fully online civil society tribunal can work
- * to provide testimony, argument and court findings that can be used as **soft law precedent in future court actions**
- * to demonstrate the relevance of **earth jurisprudence**



Advisory Opinion on:

- * Do fracking and climate change threaten human rights norms?
- * Do they threaten rights of nature?
- * If so, what does this court recommend be done about it?



Question 1

- * Under what circumstances do fracking and other unconventional oil and gas extraction techniques **breach substantive and procedural human rights** protected by international law as a matter of treaty or custom?

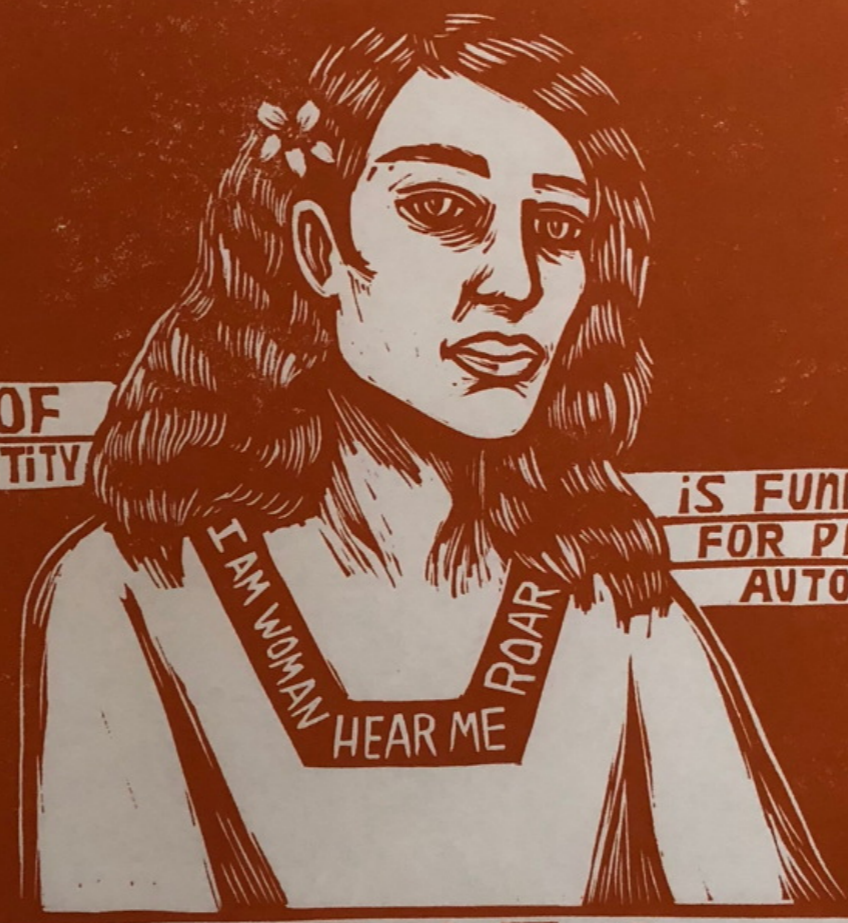


Historic uniquenesses

- * Four preliminary tribunals
- * Three Human Rights Impact Assessments (HRIAs)
- * 17 *amicus curiae* briefs
- * Conducted fully online
- * Requests an Advisory Opinion rather than a verdict
- * Included Rights of nature
- * Complete certified transcript
- * Bedrock [lecture series](#) on human rights and climate change
- * Keynote, [musical composition](#), Dedicated art show



EVERYONE HAS THE RIGHT
TO LIFE, LIBERTY AND
SECURITY OF PERSON



FREEDOM OF
GENDER IDENTITY

IS FUNDAMENTAL
FOR PERSONAL
AUTONOMY

ARTICLE 3
UNIVERSAL DECLARATION
OF HUMAN RIGHTS

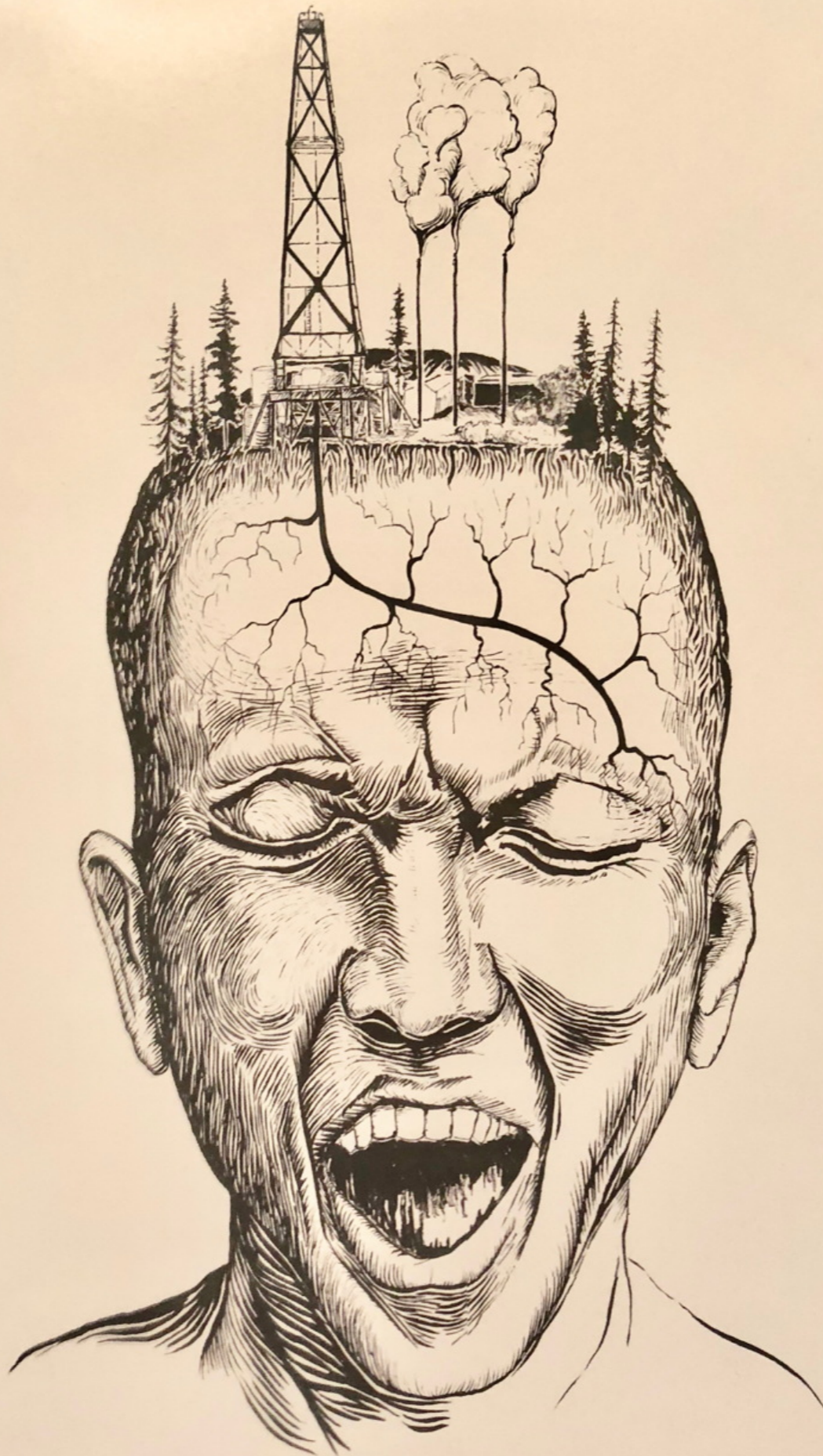
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Am8



WATER IS LIFE

#NODAPL



Outcomes

- * Outcomes so far
- * Outcomes already in the works
- * Outcomes still to emerge



Outcomes so far

- * Judges' [preliminary statement](#)
- * Media accounts
- * Kathleen Dean Moore article [“The World in Our Hands”](#) for the Center for Humans and Nature
- * Assigned in a law class at Widener University School of Law (Delaware)



Undermines rights

“The evidence clearly demonstrates that the processes of fracking contribute substantially to anthropogenic harm, including climate change and global warming, and involve massive violations of a range of substantive and procedural human rights and the rights of nature.”

– PPT [judges' preliminary statement](#), 4 June 2018



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Fully online: a success

- * "...this particular Session of the PPT has been an experiment of collaboration and communication....

The experiment has been a resounding success, with the inevitable but instructive limitations, thanks to the commitment of an organising group which deserves the recognition and gratitude not only of the PPT, but of all those who can now transform this experiment into a flexible and powerful tool which could allow the struggles of the communities of the world to become more globally and more timely known, shared and effective.”

– PPT Judges



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Outcomes already in the works

- * Certified transcript of entire Tribunal
- * Court findings (this Fall)
- * Presenting transcript and findings to UN and government agencies
- * A book about the tribunal
- * Articles (*Earth Island Journal*, etc)



Outcomes still to emerge

- * Index all testimony, arguments and findings for researchers (+ map testimony?)
- * Assign in environmental and human rights law courses
- * Video documentary
- * Mainstream media publicity about the findings
- * More online human rights tribunals
- * Academic research about this Tribunal Session
- * More books about the Tribunal
- * Use as precedent in court cases



New book

- * Byrnes, Andrew; Simm, Gabrielle. Eds,
Peoples' Tribunals and International Law,
Cambridge University Press, 2018



Sentinels

- * [People who bring cases] must be considered sentinels who set off the alarm in identifying rights violations, ... to alert the authorities with the view of stopping acts against the interest of all society.

Peoples' Tribunals and International Law,
Byrnes and Simm (eds), p 153



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Questions? Thoughts?

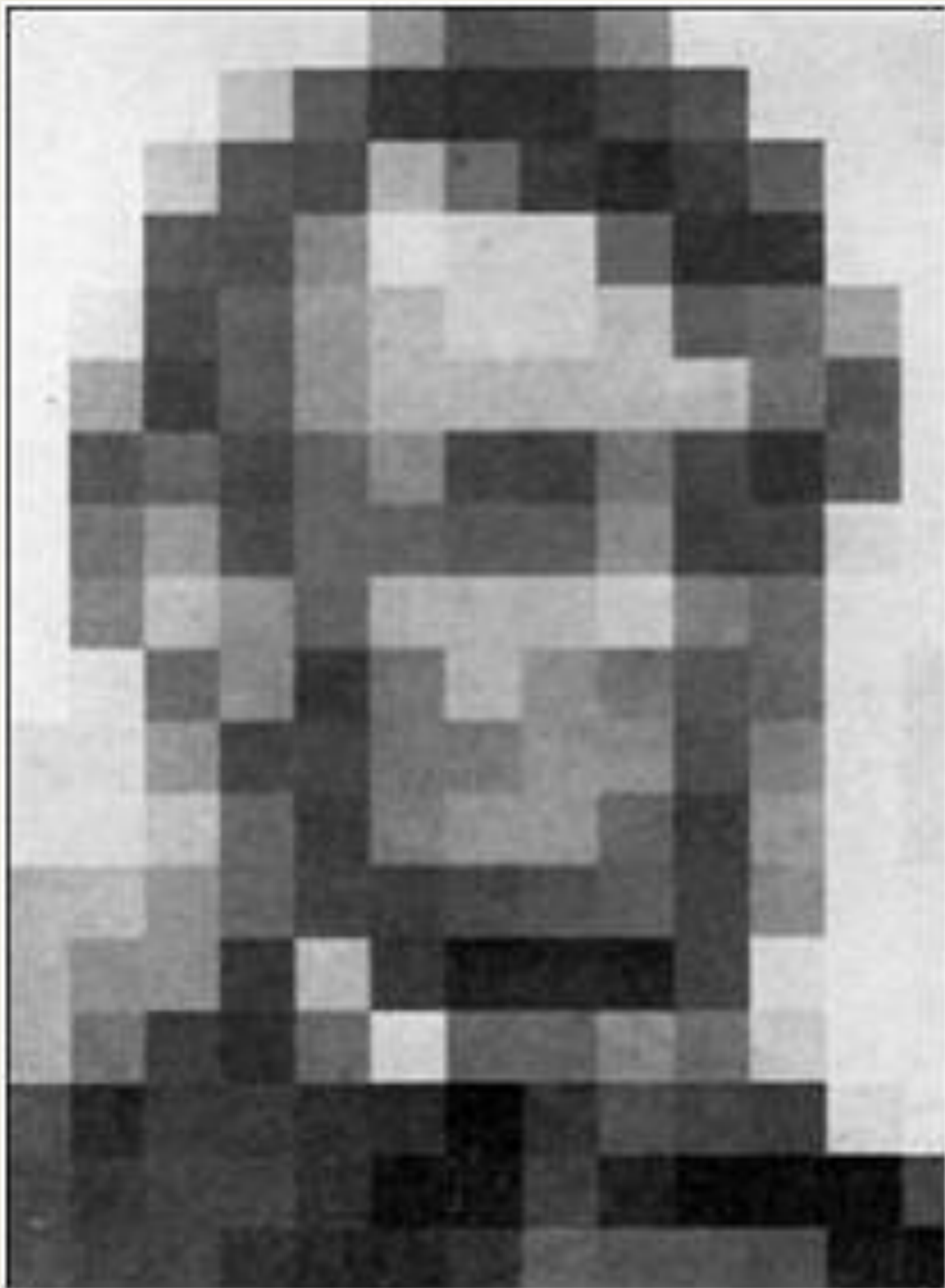
TribunalOnFracking.org

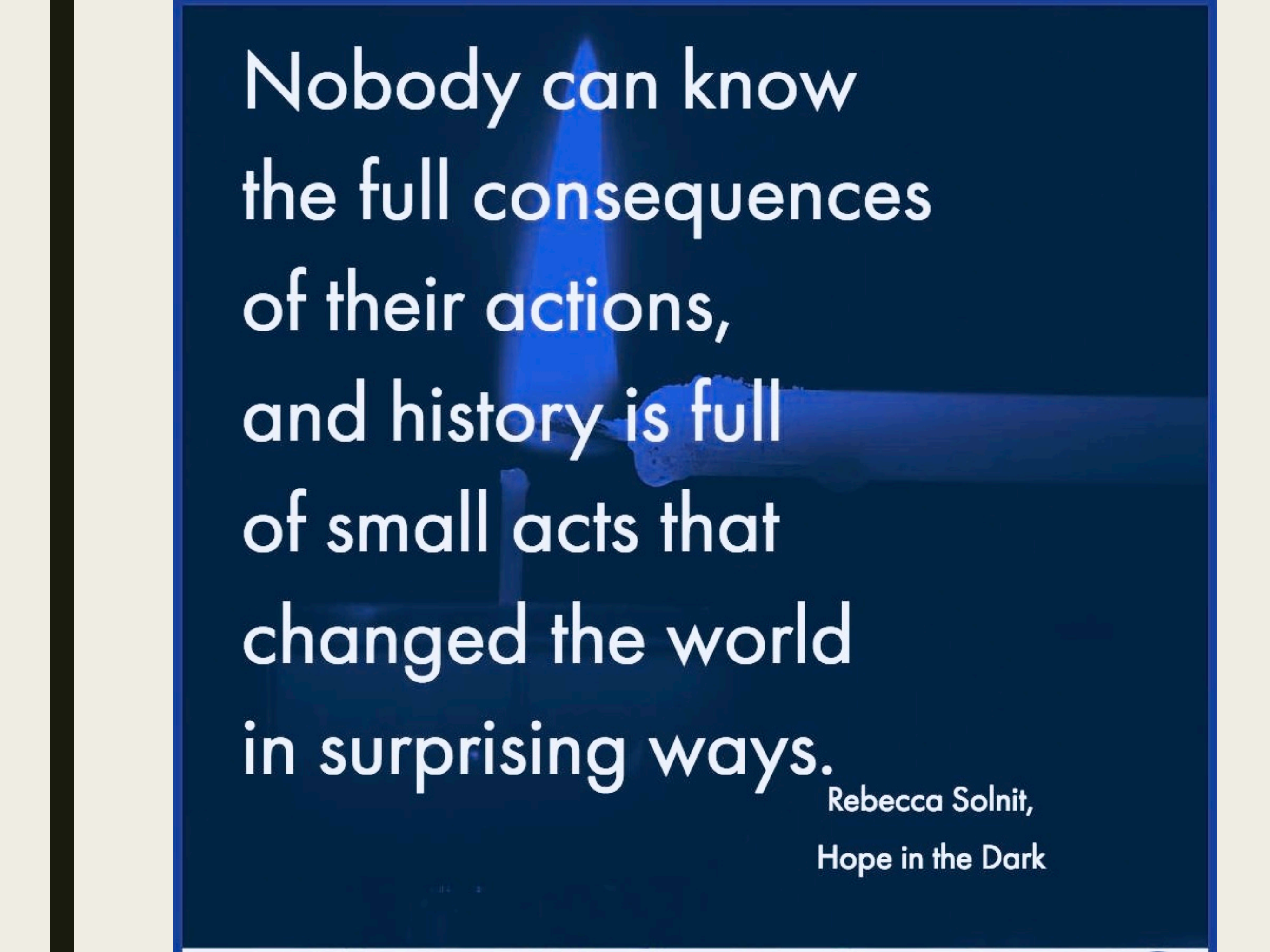


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A lit candle with a bright blue flame is the central focus, set against a dark blue background. The candle is positioned vertically, and its flame is the brightest element in the image. The text is overlaid on the image in a white, sans-serif font.

Nobody can know
the full consequences
of their actions,
and history is full
of small acts that
changed the world
in surprising ways.

Rebecca Solnit,
Hope in the Dark

Question 2

- * Under what circumstances do fracking and other unconventional oil and gas extraction techniques warrant the issuance of either **provisional measures**, a **judgment enjoining further activity**, **remediation relief**, or **damages** for causing environmental harm?



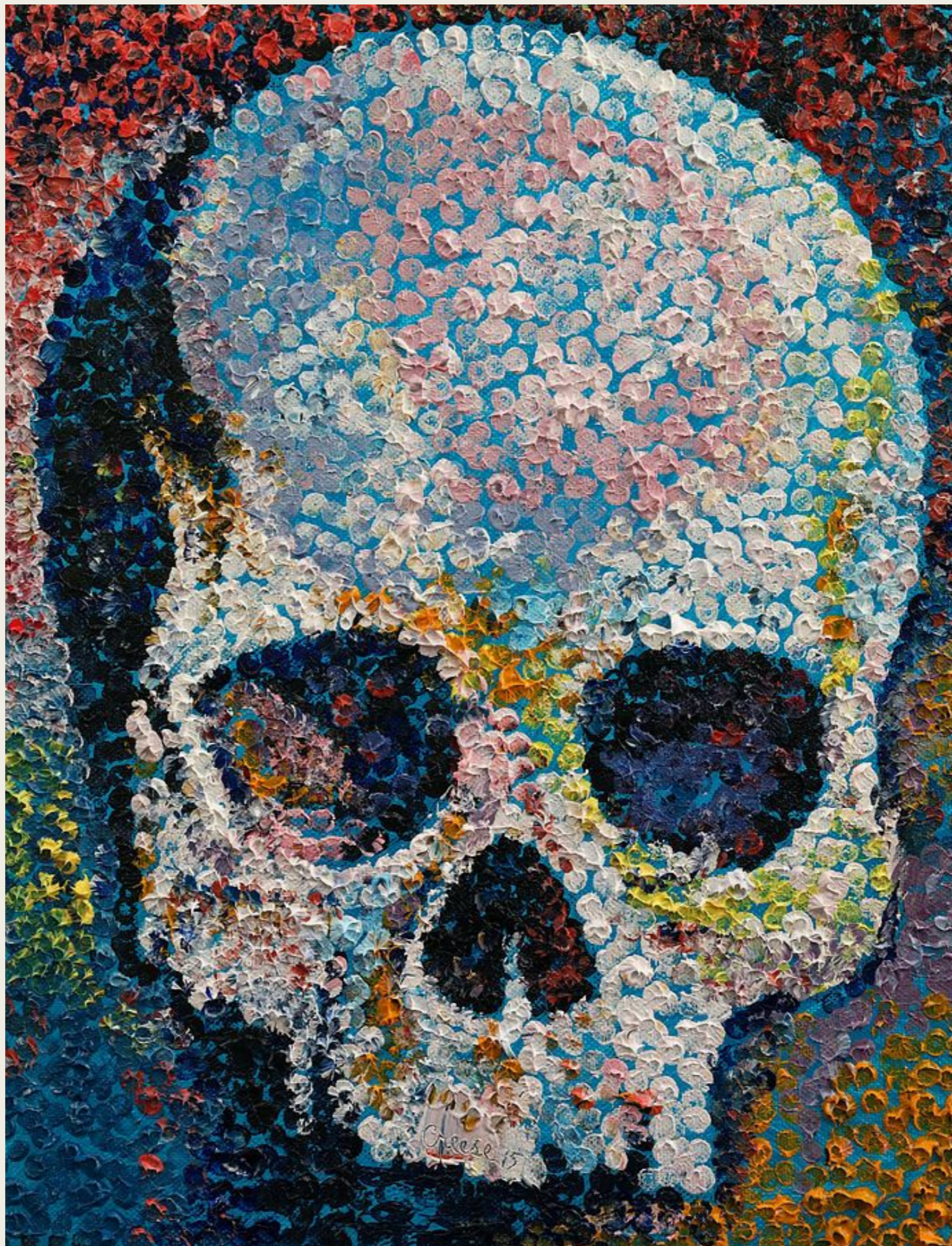
Question 3

- * What is the extent of responsibility and liability of States and non-state actors for violations of human rights and for **climate and environmental harm** caused by these oil and gas extraction techniques?

Question 4

- * What is the extent of responsibility and liability of States and non-state actors, both legal and moral, for **violations of the rights of nature** related to environmental and climate harm caused by these unconventional oil and gas extraction techniques?





Academy of Environmental Law Colloquium University of Strathclyde Glasgow, Scotland, UK 4-6 July 2018

5/7/18 14.15/16.00 Venue: TIC Conference Room 6

Tom Kerns, Environment and Human Rights Advisory, **Yachats,**
OR, USA, The Permanent Peoples' Tribunal on Human Rights,
Fracking and Climate Change: Evidence, Arguments and Findings



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Testimony from Charlottesville, VA pre-PPT tribunal

[Testimony page](#)

- * Ray Kemble (3:54 - 8:15)
- * Robie Goins (2 minutes)
- * Kenda Hanuman (3:28 – end)

