



**Submitted to
The Permanent Peoples' Tribunal
Session on Human Rights, Fracking and Climate Change
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BRIEF OF *AMICUS CURIAE*

***Coalition to Protect New York
in Support of Petitioners***

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INTERESTS OF *AMICUS*

Amicus in this case is the Coalition to Protect New York a collection of grassroots groups and individuals who live in the central, Southern Tier, and western portions of New York State in the United States of America. We represent independent, urban, rural, and suburban populations throughout the area. We share a strong interest in ensuring that people not only within our region, but also in our neighboring states, across our country, throughout our hemispheres, and all around our fragile shared planet are safe from harm by the fossil-fuel extractors and all related corporate activities.

We are strongly committed to human rights, yet we have witnessed the erosion of our own inherent rights to protect our air, water sources, and food supplies from being poisoned, and from determining how our communities will be governed and evolve. The denial of our rights is readily manifest in corporate-state forcing upon our communities of the damaging processes of fracking and its related industries and infrastructures.

We are acutely aware that our own human race is facing existential crisis with catastrophic species extinctions, habitat destruction, and climate disruption. Over the last decade of our interest in and deep involvement with fracking—from frack-sand mining to point-of-service delivery—we have watched that disruption accelerate so rapidly that even the best scientific models have proven inept.

* No counsel for a party authored this brief in whole or in part, and no party or counsel for a party, or any other person other than *amici curiae*, made a monetary contribution intended to fund the preparation or submission of this brief. All parties have consented to the filing of this brief.

Our mission is to create an environment in which we claim the right to run a government truly of, for, and by the people; and to together work against those corporations, organizations, governments, and regulatory agencies that operate with disregard for people and Nature. Stopping fracking and its infrastructure and related industrial activities has been our primary initial battle and represents the many barriers we must overcome to achieve our vision.

The Coalition to Protect New York was formed in 2010 by a group of central New York individuals and grassroots organizations in response to the growing threat of unconventional shale-gas drilling (hydraulic fracturing, or fracking) to our health, environment, communities, and ways of life. Most of us had at first been open to the idea of this new technology, understanding that society needs to get its electrical, heating, transportation, and industrial power from somewhere while transitioning to 100% fossil-free energy. Many of us had never considered ourselves activists on any issue. Until landsmen, as the industry calls its scouts, came knocking on our doors, we had no familiarity with the idea of mineral rights or fossil-fuel drilling.

On our own, and then collectively, we began studying the available data and doing our own first-person investigations in our neighboring fracked states of Pennsylvania, West Virginia, and Ohio, all of which, we discovered, were essentially in a state of shock, with thousands of wells springing up in communities that had had no forewarning, and no chance to prepare or defend themselves.

We soon recognized that many of the health and other problems being experienced by our

neighbors were a direct result of this corporate intrusion, and we became determined to stop the same fate from befalling our own beautiful, freshwater-rich, biodiverse state with its urban-, suburban-, and rural-dwelling populations.

We did not need scientists, medical practitioners, engineers, and economists to tell us that the danger was real, because we are credentialed enough as adults who live in human bodies, possess consciences, and can relate to our fellows. Nevertheless we enlisted the expertise of such professionals, as well as agriculturists, geologists, geographers, mathematicians, horticulturists, veterinarians, botanists, business owners, attorneys, physical therapists, researchers, librarians, teachers, professors, plumbers, fisherpeople, journalists, and many more, to help us navigate the nuances and make sense of overwhelming amounts of sometimes dense data we would be encountering. We pooled our own knowledge and sponsored numerous public education forums, panels, lectures, films, debates, and discussion series.

We compiled mountains of peer-reviewed scientific papers, economic studies, medical records, news reports, legal treatises, and actual firsthand frontline stories from individuals and communities living in the shadow of this industry, whose scope is breathtakingly vast and was growing at a terrifying pace impossible to meet.

Although we have written scores of white papers, reports, legal petitions, local and statewide legislation, scientific articles, and more, this is our first legal brief. Because we believe in the international importance of the Permanent Peoples'

Tribunal and especially in this Session on Human Rights, Fracking and Climate Change, we submit it humbly and in hopes that it serves the purpose for which it is intended—to shine further light on what we consider egregious crimes against humanity as well as against Nature. The supporting documents have been collected over the years and represent just a small fraction of the total we have accumulated.

SUMMARY

Over the last eight years-plus of our deep collective immersion in the legal, medical, scientific, cultural, economic, political, and sociological aspects of fracking and related industries, we have witnessed firsthand that these industrial activities have caused many human illnesses and deaths, that the dangers were well known in advance by the industry and its government partners, and that these sufferings could have been avoided if not for the greed and hubris of the offending parties. We will share some of what we learned.

We know that many experts, in various fields and from many nations, will be presenting their knowledge to this Tribunal, and that many of them hold many more credentials than we can exhibit.

Still, we believe that our grassroots research, firsthand and witnessed experiences, and collective wisdom are as valuable as input you will receive from scientific, medical, legal, economic, and human rights experts. Among our primary contributors are a PhD psychologist, a journalist of 40 years' experience, educators, advocates for the homeless, humanitarian aid workers, longtime activists on a wide variety of environmental, peace, justice, and human rights issues, and just plain folks trying to live our lives in as healthy, peaceful, and cooperative a way as possible.

We hope our observations shed light on some things that may not have been otherwise mentioned in these proceedings.

ARGUMENT

Petitioners have already extensively briefed the Tribunal on relevant legal history and statutes within International Human Rights Law.

We are familiar with international human rights documents including those comprising the International Bill of Rights.

We understand that Human Rights Law includes the rights to life, to security of our own persons, to property, to health, and to a healthy and sustainable environment. Such rights include respect for our individual and family privacy, access to clean potable water, access to an untainted and adequate food, and access to clean air, access to a habitable and safe dwelling, special rights of children, and the right to prior, free, and informed consent.

Our interpretation of those laws and the interrelated Sustainable Development Goals of the United Nations, and our own often painful experiences, have led us to an incontestable conclusion: Fracking and related industries, and the governments and official actors that encourage, enable, or partner with them have committed and continue to commit countless human rights abuses, as well as to exacerbate catastrophic climate disruption.

In our first few years we consulted the great endocrine disruption researcher Theo Colborn (now deceased) from the fracked state of Colorado, founder and driver of [The Endocrine Disruption Exchange](#), with its wealth of resources. We discovered the meaning of industry terms such as flocculant, biocide, surfactant, shale control inhibitor, additive, and buffering agent. We learned with horror that these

types of chemicals used in fracking for the benefit of the machinery—chemicals that the industry was not required to disclose—including endocrine disruptors, neurotoxins, and carcinogens. We received an earlier version of the attached spreadsheet from the organization in 2009, and learned the potential effects of these things on our skin, eyes, sensory organs; our kidneys; our livers; our gastrointestinal systems; our brains and nervous systems; our immune systems; our cardiovascular systems and blood; and even our gonads!

We closely followed the [legal challenge](#) by Canadian industry insider **Jessica Ernst** against EnCana Corporation, which, abetted by that fracked province's Energy Resources Conservation Board (which was taken over by the Alberta Energy Regulator in 2013), had polluted the entire drinking water supply of Ernst's hometown of Rosebud, Alberta. We learned that the Alberta Energy Regulator, the provincial agency responsible for overseeing drilling operations, is 100% funded by industry, and its CEO, Gerry Protti, is a former EnCana executive, the founding president of the Canadian Association of Petroleum Producers, and a longtime lobbyist for the Energy Policy Institute of Canada. So although we were horrified, we were not surprised to see the vicious ways in which the industry and its government cronies persecuted this brave lone woman for daring to speak out on behalf of her intimidated community, how the **supreme court eventually ruled against her**, and how all along they turned her own townmates against her.

We watched similar divisions in Pennsylvania towns, where farmers like **Carolyn French, Terry Greenwood, Ron Gulla, and Carol Knapp**, homeowners like **Stephanie Hallowich** and

Victoria Switzer, and the great citizen journalist **Vera Scroggins** were persecuted, prosecuted, and gagged—even as they were being poisoned and their homes and livelihood farms lost their value.

Jenny Lisak began her **List of the Harmed** (attached), an “ever-growing list of the individuals and families that have been harmed by fracking (or fracked gas and oil production) in the US,” compiled from public reports. We met many of these people.

We watched some get sick, like the farmer Terry Greenwood, who developed a rare form of cancer just a few years after his farm pond was contaminated and his once-healthy cows began mysteriously giving birth to sickly calves. Later 100 percent of them were suffering stillbirths. All along, the Greenwoods had been treated shamefully by the drilling company, Dominion Energy, which had seized control of their farm because of a 100-year lease that had been signed back in 1921, decades before the technology for fracking had been invented. There was no recourse any of the harmed.

When the drilling company Cabot blew the concrete cover off a water well at the Dimock, Pennsylvania, home of Norma Fiorentino in January 2009, and subsequently permanently contaminated the drinking water of 19 families in Dimock, we thought for sure the permits for fracking in Pennsylvania would stop. Instead the wealthy companies and their well-paid attorneys began more insidious attacks on these good people.

We collected money and water donations and drove 500-gallon water tanks to the Dimock families when their wells were poisoned. The above-mentioned brave souls and others visited New York and warned

us, sharing further **heartbreaking stories** from their fellow Pennsylvanians. Some of the Dimock families, desperate for escape from dangerous, worthless homes, were compelled to reach a settlement with Cabot that required them to remain quiet on the subject forever. The **Hallowich family** was slapped with such an order that even included their elementary school-age children, for life. The most insidious of gag orders, we thought. Yet even more astonishingly, in 2012 **their state legislature passed a law that forbade doctors and nurses, including emergency room professionals, from sharing information with patients** who'd been exposed to "proprietary" toxic fracking chemicals. Two years later, after numerous lawsuits and requests through the federal Freedom of Information Act, Pennsylvania's Department of Environmental "Protection" (our quotes) **finally admitted that fracking operations had contaminated private drinking wells in 243 cases over 22 counties** (including that of **Terry Greenwood**, who had died shortly before this was exposed).

Pennsylvanians, and their neighbors to the north, were not helpless. Many CPNY members and allies participated in [Democracy School](#) intensive trainings on community rights organizing. The Daniel Pennock Democracy was named for a child in Pennsylvania who died after exposure to sewage sludge. Run by the Program on Corporations, Law, and Democracy, it explains the history of corporate control and state preemption so that people might be more powerful in opposing these human rights-suppressing powers.

From the heavily fracked state of Texas (the leading producer of crude oil in the United States), we devoured the blogs produced by Barnett Shale

mineral owner **Texas Sharon (Sharon Wilson)**, formerly a believer in the industry who learned the hardest possible way that it does not have our best interests at heart. We read the detailed papers by Texas farmer and industry financial analyst **Deborah Rogers**, founder of [Energy Policy Forum](#), which showed how the shale-gas bubble would not yield better lives for people in fracked communities, and would provide only short-term employment in the job-starved regions across the United States. We invited her to speak to New Yorkers to help us follow the money—that is, real, projected, and hyperbolic. (We were helped by financial experts in our own state, too, notably the equally educational [economist Jannette Barth](#), PhD, founding director of the Pepacton Institute LLC in our own home state).

Residents of Denton, a city north of Fort Worth, Texas, also urged New York to stand fast against fracking. They were suffering from pollution-related ailments, thanks to a dozen drilling wells within the city limits. The Denton Drilling Awareness Group tried for years to restrict them, petitioning for relief from fracking operations that “impact the City’s environment, infrastructure and related public health, welfare and safety matters.” Besides the groundwater contamination, noise pollution, and air quality impacts, drilling frack-waste disposal wells there were heavily linked with low-magnitude earthquakes. But there was no relief, and the townspeople eventually felt they had no recourse but to pass a simple ordinance banning fracking: “It shall be unlawful for any person to engage in hydraulic fracturing within the corporate limits of the City.” The ban passed in 2014, the first in the state of Texas. Along with the people of Denton, we were outraged when **two lawsuits** were brought against the town, one by the state agency that

regulates fracking in Texas and another by the industry. We were again astounded and appalled when the state's governor signed a **law severely limiting** how local governments can regulate fossil fuel drilling within their communities, nullifying Denton's ban and other restrictions in different cities. Similar attacks by legislative, judicial, and executive branches (federal, state, and local governments' officials and agencies) on communities' rights to protect themselves have happened across the United States.

All these experiences continued to reinforce what we had concluded in 2010 when we first came together as a coalition and wrote the definition of fracking, for which we were initially mocked but which has now come to be nearly universally recognized in the Marcellus Shale region and other shale drilling places in the United States and elsewhere as truth:

Terminology. "Fracking" is our word, chosen carefully, with deep understanding of the history and practice of the fossil-fuel industries. We use "fracking" to mean all the processes involved in exploring, developing, extracting, disposing, storing, and distributing shale gas (so-called "natural" gas) via unconventional drilling, and all related industrial activities. **We use it secondarily but equally importantly to denote the "fracturing" of our health, environment, properties, communities, legislatures, media, justice system, rights, relationships, and way of life by those who would usurp and abrogate our rights. The fact that fracking additionally is a huge factor in hastening catastrophic climate disruption simply underscores what a crime it is against us all.**

CONCLUSION

By any reasonable measure, such attacks upon our health, environment, and future should be considered criminal offenses—against all of humanity and against the Earth.

Nature deserves our legal protection as well, as do children, the people of the global south, and all who are suppressed and silenced by those who wield the money and power—corporate executives and board members, primarily. Without an honorable international judiciary to stop them, these entities will have free rein to control policy decision-making and further subvert legislatures, judiciaries, and executive branches of governments from the village level on up.

We believe fracking and related industrial activities should be made crimes in international law, as they are in reality.