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**Green Is the New Black: African American
Literature Informing Environmental Justice
Law[†]**

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INTRODUCTION

The trip to Mars can only be understood through Black Americans
I say, the trip to Mars can only be understood through Black
Americans.¹

How do legal scholars currently think about environmental justice law? Could African American literature, and its sister, Native American orature, shape those thought patterns? Giovanni's poem says that if one is going to go to Mars, to make a journey without precedent through unfathomable darkness, the end date of which cannot be predicted, which one might not even survive, one must take with him or her the people who have experienced history's only analogue: the middle passage of the triangular trade route, black people.² If one is going to Mars one must take black people, and this note argues much of African American literature, like indigenous oral and literary traditions, suggest that if one wants to save this vulnerable world and its beings, black and brown people are essential to that project. If one wants to save nonhumans, one needs the dehumanized. If one wants to speak for the voiceless, that would-be advocate needs those who were once bound into bits and bridles. If one wants to save the trees, how can one do it without those who were their strange fruit? I write this note to encourage environmental justice scholars and practitioners to take the stories of people of color with them to Mars, that is to say, on their journey to a greener world.

I

TREES ARE PEOPLE TOO?

Robert R. Kuehn's *A Taxonomy of Environmental Justice*, presents the U.S. Environmental Protection Agency's definition of environmental justice as "based on the premise that: 1) it is a basic right of all Americans to live and work in 'safe, healthful, productive, and aesthetically and culturally pleasing surroundings.'"³ Here, rights-bearers are defined as "Americans" and justice may be incarnated or denied within the realms of shelter and labor. But this seemingly

¹ NIKKI GIOVANNI, *QUILTING THE BLACK-EYED PEA: POEMS AND NOT QUITE POEMS* 3 (2002 ed.).

² *Id.* at 3-4.

³ Robert R. Kuehn, *A Taxonomy of Environmental Justice*, in *ENVIRONMENTAL JUSTICE: LAW, POLICY & REGULATION* 6, 7 (Clifford Rechtschaffen et al. eds., Carolina Academic Press 2d ed. 2009).

innocuous and ambitious claim is not capacious enough to provide justice for many people of color. The EPA goes on to say environmental justice is “inclusive since it is based on the concept of fundamental fairness, which includes the concept of economic prejudices as well as racial prejudices.”⁴ However, real justice would not only guarantee Americans of color equality in places where they live and work, but would also begin with a conception of justice that includes nonwhite epistemologies and incorporate right-bearers who are nonhuman, and therefore lacking in American citizenship. These rights are as important culturally as the rights of living and working in “safe, healthful, productive, and aesthetically and culturally pleasing surroundings.” The definition does not even protect all humans. Would it be all right to concentrate toxic sites in a community of illegal immigrants because they are not American citizens? Should not those on green cards and visas be protected from environmental injustice on our soil?

African American literature, like indigenous cultures’ literature, locates humans within a web of life that makes it illogical to protect species separately. Western legal tradition sees each part of nature as discrete. For example, an untitled Lucille Clifton poem reads “being property once myself / I have a feeling for it, / that’s why I can talk / about environment / what wants to be a tree, / ought to be he can be it. / same thing for other things. / same thing for men.”⁵ The fifth and sixth verses of the poem provide a literary answer to Christopher Stone’s legal question “should trees have standing?”⁶ Clifton speaks to the rights of nature through cultural experience, not as legal theorists do through strategies of pragmatism or eclecticism.⁷ Despite blacks possessing personhood and sapience, they were still not recognized as human by antebellum law. Further, Clifton refuses to believe nonhuman status means one does not, or cannot, desire rights or possess the right to have that desire sated.⁸

In *Should Trees Have Legal Standing in Indian Country*, Steve Pavlik, inspired by Stone’s work, notes,

⁴ *Id.*

⁵ LUCILLE CLIFTON, *GOOD NEWS ABOUT THE EARTH 2* (1972).

⁶ *See infra* note 9.

⁷ CLIFTON, *supra* note 5, at 103.

⁸ *Id.*

every Native American tribe possesses its own origin story as to how the universe and all life came to be. Unlike Western society and its Judeo-Christian creation story—and the Western law that springs from this tradition—Native creation stories and law do not elevate humans above Animal or Plant People.⁹

Consistent with Pavlik's observations, Cherokee policy, incarnated in tribal nations narratives, demands respect for animals.¹⁰ For example, hunting deer is permitted, but one must apologize to the spirit of the slain animal.¹¹ In Cherokee stories, "environment" has rights and desires.¹² Thus, nonhuman beings such as plants, animals, and insects are not simply the Western concept of "nature" or the "environment" that we desire to surround Cherokees in a "culturally pleasing manner." Rather, these nonhuman beings are members of our communities.

Another example of how the EPA's definition of environmental justice fails nonwhites is illustrated by Cherokee beliefs regarding corn. Many Cherokees see corn as our grandmother and, thus, sacred, and many disapprove of its genetic modification.¹³ For Cherokees, environmental justice would recognize the right of all Americans to have their nonhuman family members protected from practices some regard as akin to non-consensual medical experimentation.¹⁴

I should note here that not all African Americans or indigenous individuals value nature, let alone see anyone other than humans as possessing personhood status or rights. Nor do all those who recognize nonhuman rights or personhood agree with how to classify or treat different members of the environmental community. Nor do all people of color have the same environmental goals. However, that does not mean one cannot speak of cultural or transcultural worldviews nor note centuries-long trends and global commonalities in the orature and literature of indigenous peoples and African Americans.

The EPA's definition is an example of how colonialism refuses, or is unable, to see America as a space of legal pluralism, where the laws

⁹ Steve Pavlik, *Should Trees Have Legal Standing in Indian Country?*, 30 WICAZO SA REV. 7 (2015).

¹⁰ JAMES MOONEY, *Myths of the Cherokee*, in JAMES MOONEY'S HISTORY, MYTHS, AND SACRED FORMULAS OF THE CHEROKEES 251 (Bright Mountain Books 1992).

¹¹ *Id.*

¹² CLIFTON, *supra* note 5, at 103.

¹³ See generally Jami Murphy, *Seed Bank to Open Feb. 1*, CHEROKEE PHOENIX, Dec. 23, 2015, (growing non-genetically modified corn), <http://www.cherokeephoenix.org/Article/Index/9908>.

¹⁴ See Pavlik, *supra* note 9, at 7, 16.

of multiple human cultures are at play. Colonial perspectives do not consider that indigenous legal pluralism recognizes terrain as being governed by laws set up by both humans and nonhuman policymakers. Decolonizing legal pluralist perspective doesn't require anyone to believe corn is the literal grandmother of humans or that trees have desire. Rather, a legal pluralist perspective requires respect for the fact that more than the colonial legal system operates on American soil. After all, I am subject to the American legal system whether or not I agree with the cosmologies in which it is rooted. Similarly, if I were to travel to a country with a universal ban on alcohol for Islamic reasons, I would be subject to that law even though I am not a Muslim. I would not have to agree with the law, or see its reasons as legitimate, or even believe in God, but I am still required to recognize that law.

Inspired by Bryan McKinley Jones Brayboy's *Toward a Tribal Critical Race Theory in Education*, I would propose the following tenets, which I will term a "Biocentric Critical Race Theory," as corrective measures to the problems in the EPA's definition of environmental justice:

1. Anthropocentrism is endemic to society.
2. Anthropocentricity is tied to racism and colonialism because anthropocentrism is, in part, an erasure of nonwhite and non-Western peoples' cosmologies.
3. Non-Homo sapiens are not human or, in indigenous terms, "real people," but this does not necessarily mean they do not possess personhood and attendant rights.
4. Nonwhites seek environmental justice on behalf of themselves, as well as the other human and nonhuman members of our communities. Indigenous peoples seek, as part of our sovereignty as First Peoples, the recognition of our Native biocentric cosmologies and their attendant legal implications.
5. Indigenous stories are sources of indigenous law. African American literature offers important insights for American law.
6. Interest convergence advances the interests of whites and the privileged at the expense of nonwhites and nonhumans.
 - a. For example, white society will permit large-scale egregious brutality of animals when whites profit, such as in factory farming, or to perpetuate European culture, in the case of bullfighting. White society will only move to protect animals when it serves the interests of white supremacy, particularly the conscription of nonwhites into the criminal

- justice system and/or the denigration of nonwhite cultures as inferior. An effort to prosecute Santeria practitioners for animal sacrifice was struck down as unconstitutional by the Supreme Court. The case, *Church of Lukumi Babalu Aye*,¹⁵ being an example of protecting animals when it serves racist interests and condemnation of Makah whaling¹⁶ being an example of protecting animals as a means to the end of criminalizing nonwhites and rendering indigenous/nonwhite cultures as savage.
- b. Furthermore, just as the race of murder victims is the predominant determinant of whether or not murderers get the death penalty, race and species intersect to determine whether or not killers face punishment. Thus, Santeria practitioners were threatened with harsh punishment from a city ordinance enacted in anticipation of the church coming to town.¹⁷ However, it took a large scale social movement for the white Hispanic George Zimmerman to even be charged, and thus face the threat of punishment, six weeks after killing African American youth Trayvon Martin.¹⁸
7. Intersectionality also encompasses indigeneity and relationships to nonhuman species. One may be a member of a non-indigenous ethnic group of color and also a member of an indigenous group. One's identity may be complicated and compromised by other factors, such as being the descendant of a nonhuman, such as Grandmother Corn.

II

GREENLINING

Later in his piece, Kuehn observes,

Although there has been a great deal of discussion about the need to reform existing public participation models and although many government agencies now recognize their failure to ensure meaningful participation by disadvantaged populations, EPA's refusal to require that waste facilities and permitting agencies "make

¹⁵ See *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993).

¹⁶ *Anderson v. Evans*, 371 F.3d 475 (9th Cir. 2002).

¹⁷ *Church of Lukumi-Babalu Aye*, 508 U.S. at 527.

¹⁸ Bill Chappell, *Zimmerman Arrested on Murder Charge in Martin Case; Will Plead Not Guilty*, NPR (Apr. 11, 2012, 6:06 PM), <http://www.npr.org/sections/thetwo-way/2012/04/11/150449405/zimmerman-arrested-on-murder-charge-in-martin-case>.

all reasonable efforts to ensure equal opportunity for the public to participate in the permitting process” [in EPA’s Resource Conservation and Recovery Act’s public participation regulations], the antagonist attitudes of some state officials toward allegations of environmental justice, the hostility of environmental justice critics toward government grants to community groups for environmental education and outreach efforts, and the assertions by some regulated entities that increased public participation is not appropriate do not bode well for finding consensus on the format of a fair decision-making process or for avoiding future allegations of procedural injustice.¹⁹

One way to approach this problem is to provide *ex post* consequences for *ex ante* injustice. John McKnight, an activist and Northwestern University sociologist, coined the term “redlining” to describe how banks neglect impoverished communities.²⁰ Concomitant with the form of disinvestment known as “redlining” is what I term “greenlining.” Greenlining constitutes the investment practices that facilitate the transformation of poor and/or nonwhite communities into “sacrifice zones.” These zones are areas where, as Steve Lerner describes them in his book *Sacrifice Zones: The Front Lines of Toxic Chemical Exposure in the United States*, “low-income and minority populations, living adjacent to heavy industry and military bases, are required to make disproportionate health and economic sacrifices that more affluent people can avoid.”²¹

There are, however, remedies for redlining. For example, “the Home Mortgage Disclosure Act (HMDA) is a law designed to discourage redlining in mortgage lending and to encourage reinvestment in the nation’s cities by providing greater transparency, and thus greater public scrutiny of lending activities.”²² HMDA acts against disinvestment through redlining. It could also be modified into an environmental justice law, a law to fight greenlining, if it contains a mechanism designed to combat forms of investment that fund pollution in those same communities.

¹⁹ KUEHN *supra* note 3, at 6, 11.

²⁰ SHIRLEY SAGAWA & ELI SEGAL, COMMON INTEREST, COMMON GOOD: CREATING VALUE THROUGH BUSINESS AND SOCIAL SECTOR PARTNERSHIPS 30 (Harvard Business Press 2000).

²¹ STEVE LERNER, SACRIFICE ZONES: THE FRONT LINES OF TOXIC CHEMICAL EXPOSURE IN THE UNITED STATES 3 (MIT Press 2010).

²² ALLEN FISHBEIN & REN ESSENE, THE HOME MORTGAGE DISCLOSURE ACT AT THIRTY-FIVE: PAST HISTORY, CURRENT ISSUES 1 (2010), <http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/mf10-7.pdf>.

As Kat Aaron describes in a 2010 *Prospect* article, changes were proposed to HMDA:

[First,] move responsibility for the collection and reporting of the data to the new Consumer Financial Protection Bureau. Second, it would require an expansion of the loan details to be collected under HMDA, including, for the first time, credit-score information and age of the borrower, total fees and points, presence of teaser rates or prepayment penalties, and the use of a mortgage broker, loan officer, or other agent.²³

What if there was a toxic and military base disclosure act designed to use transparency to discourage the production and perpetuation of sacrifice zones? This law could require all loans to specified toxic industries, and military base constructions, be reported to the EPA. Furthermore, it could require collection of demographic information for all the communities located on or around the land being used. In his article, Aaron described the effects of the suggested changes to HMDA as having the ability to “transform the predatory-lending debate from arguments over anecdotes to conclusions based on hard evidence.”²⁴ A similar law designed around land use could change the debate in the same way, allowing communities to see which financial institutions are funding environmental injustice, denying banks the ability to hide environmentally racist lending practices, and enabling victimized populations and their allies to divest from those financial institutions.

Divestment is a strategy that is repeatedly deployed to combat injustice. In her chapter “The US Divestment Movement,” from the book *How Sanctions Work: Lessons from South Africa*, Meg Voorhes describes how the campus divestment movement brought public attention to the issues of apartheid, and generated media coverage that inspired South African activists.²⁵ Environmental justice divestment could have similar effects. Beyond this, divestment is a way for average people to take meaningful action. In his book *Boycott Divestment Sanctions: The Global Struggle for Palestinian Rights*, Omar Barghouti explains that the failure of the international legal community to bring Israel to justice for its abuses of Palestinians compels

²³ Kat Aaron, *Anti-Redlining Law Gets a Makeover*, THE AMERICAN PROSPECT (July 12, 2010), <http://prospect.org/article/anti-redlining-law-gets-makeover-0>.

²⁴ *Id.*

²⁵ MEG VOORHES, *HOW SANCTIONS WORK: LESSONS FROM SOUTH AFRICA* 129–30 (Neta C. Crawford & Audie Klotz eds., 1999).

individuals to pressure Israel through boycotts.²⁶ As Barghouti describes, divestment is a way for ordinary people to cease relegating the responsibility of bringing justice to others, and to deploy the power they possess to do good.

III

WHAT'S THE FAIREST OF THEM ALL?

Vicki Been, in her article *What's Fairness Got to Do With It? Environmental Justice and the Siting of Locally Undesirable Land Uses [LULU]*, describes different approaches to fair siting. One is "Fairness in the Pattern of Distribution," which Been describes as having "strong and weak versions." She explains, "[u]nder the strong version, fairness demands a proportional distribution of benefits . . . A weaker version of the theory asserts that fairness requires a proportional distribution of burdens, even if benefits are not allocated proportionally."²⁷

I am not convinced the second version is, in fact, "weaker." First, there tends to be consensus across diverse groups of people on what constitutes environmental burdens. Namely, no one, whether a white working class community, a middle class African American community, or a Lakota reservation community, wants to breathe toxic fumes or have the bodies of community members invaded by carcinogens. While communities may tolerate things like deleterious health effects out of, for example, desperation for jobs, that does not mean these effects are not considered burdens, they are simply burdens some communities feel they must bear. In contrast, it is difficult to allocate benefits proportionally when the definition of a benefit varies across communities.

For example, it has been theorized that many African Americans are haunted by the legacy of racial violence in forests.²⁸ Thus, a local wood might not be deemed a benefit to a particular African American community the way a park might. A forest in a safe community might provide a place to hike, contributing to the public health goal of fighting

²⁶ OMAR BARGHOUTI, BOYCOTT DIVESTMENT SANCTIONS: THE GLOBAL STRUGGLE FOR PALESTINIAN RIGHTS 74–75 (2011).

²⁷ VICKI BEEN, *What's Fairness Got to Do With It? Environmental Justice and the Siting of Locally Undesirable Land Uses*, in ENVIRONMENTAL JUSTICE: LAW, POLICY & REGULATION 13–14 (Clifford Rechtschaffen et al. eds., 2009).

²⁸ Casandra Y. Johnson, *A Consideration of Collective Memory in African American Attachment to Wildlife Recreation Places*, 5 HUM. ECOLOGY REV. 5, (1998)

obesity. In a crime-ridden neighborhood, a wood may be unable to serve this role. Rather, drug dealers, and other maligners, who might make foul uses of the woods secluded properties, might occupy the woods.

Furthermore, when it comes to environmental benefits, communities will have different ideas about how much is too much of a good thing. For example, citizens of some locales chose to preserve large amounts of green space. This drove up both taxes and the price of the remaining space available for housing. This situation may have a punitive effect on a community where the environmental “benefit” is imposed on them. This occurs when a community is unable to pay the costs associated with this “benefit.” Certain neighborhoods will desire high levels of environmental resources for aesthetic, cultural, or quality of life reasons, while other communities will prioritize other social goods. As long as there is a baseline of environmental benefits to which all communities are entitled, environmental benefits do not need to be proportional to be fair.

The weakness of both theories of distribution is their anthropocentricity. As Been says, “One scheme would impose a physical proportional distribution: LULUs themselves would be distributed equally among neighborhoods.”²⁹ However, in African American literature and Native American stories, not all people, such as those with roots, more than two legs, wings, and fins, live in neighborhoods. Fairness in patterns of distribution needs to ensure nonhuman communities don’t bear disproportionate shares of environmental burdens either. Even those who don’t recognize nonhuman personhood should take this into account, for purely pragmatic anthropocentric reasons. While African Americans and Native Americans may consider the rights of nonhumans out of morality, nonwhites do so because failing to recognize these rights has consequences for humans.

This ideology is described by Robert A. Williams, Jr. in his article, *Large Binocular Telescopes, Red Squirrel Piñatas, and Apache Sacred Mountains: Decolonizing Environmental Law in a Multicultural World*. He explains, “you protect what a modern environmentalist might call the biodiversity of the mountain because it is that biodiversity which physically sustains you and the members of your tribe. It is a source of food and other forms of sustaining nourishment.

²⁹ BEEN, *supra* note 27, at 14.

It provides herbs and healing medicines.”³⁰ If a land use places a disproportionate burden on the bee community, the global human population will have a lower food supply. For example, a local land use, unwanted by humans, situated in “the middle of nowhere,” may place a disproportionate burden on the salmon community, and will have long-term disproportionate consequences for a Native American subsistence fishing community living downstream.

Anthropocentricity remains a problem when distribution requires a “compensated equality.” Been explains, “[i]n this distribution scheme, all individuals or communities that gain a net benefit from a particular LULU must compensate those who suffer a net loss.”³¹ Yet the inability to compensate nonhumans reminds us that many environmental harms are non-fungible. Coal companies practicing mountaintop removal mining have offered compensatory-like damages to the mountains they have harmed (although coal companies certainly do not think of the practice in these terms). Critics condemn these efforts as deficient. For example, a biodiverse mountainside forest might be “replaced” by a mono-species tree plantation. It is difficult, and in some cases impossible, for humans to recreate nature.

Even worse, some attempts at compensating nature results in harm to nonwhite communities. For example, companies practicing carbon offsetting by stealing land from indigenous communities to “preserve” that land in exchange for “carbon credits.”³² Because the only currency with which to compensate nature *is* nature, and because there is a finite amount of nature, white, western, capitalist entities often compensate nature at the expense of indigenous peoples. Consider the conservation refugee crisis.

In *Reflections on Distance and Katrina*, Jim Igoe, of the University of Colorado Health Sciences Center, tells how “networks of private enterprise, NGOs, and government officials” are displacing

³⁰ ROBERT A. WILLIAMS, JR., *Large Binocular Telescopes, Red Squirrel Piñatas, and Apache Scared Mountains: Decolonizing Environmental Law in a Multicultural World*, in 2 ENVIRONMENTAL JUSTICE: LAW, POLICY & REGULATION 111, 116 (Clifford Rechtschaffen et al. eds., 2009).

³¹ BEEN, *supra* note 27, at 14.

³² Nafeez Ahmed, *World Bank and UN Carbon Offset Scheme ‘Complicit’ in Genocidal Land Grabs—NGOs*, THE GUARDIAN, July 3, 2014, <https://www.theguardian.com/environment/earth-insight/2014/jul/03/world-bank-un-redd-genocide-land-carbon-grab-sengwer-kenya>.

Tanzanians.³³ He says, “Exxon Mobil is also sponsoring part of conservation interventions initiated by the African Wildlife Foundation,” which means that “local people targeted by this intervention are being encouraged by the African Wildlife Foundation and the Tanzanian government to enter into agreements and sign things that they don’t fully understand.” This transforms these landscapes from peopled landscapes to those dominated by wildlife, which makes them attractive to private investors at the expense of locals. It also provides Exxon Mobil, and many other corporations that sponsor conservation interventions, with tax breaks and a valuable green public image enhancement.³⁴

Consider the case of Chevron. Chevron has brutally abused nature, wildlife, and humans across the globe.³⁵ They have been sued for \$27 billion by an indigenous Amazonian community whose rainforest was polluted by oil-drilling.³⁶ Like Exxon, this company’s attempts to compensate the parts of nature that were harmed by preserving other parts of nature, cause indigenous people to become conservation refugees.³⁷ Abuses of this sort are condemned in the iconic environmental justice document “Letter, Circa Earth Day 1990,” an open letter drafted by a group of individuals from many walks of life. The letter observes,

[a]lthough environmental organizations calling themselves the “Group of Ten” often claim to represent our interests [as people of color and the working class], in observing your activities [as the Group of Ten] it has become clear to us [people of color and the working class] that your [the Group of Ten’s] organizations play an equal role in the disruption of our [people of color and the working class] communities. . . . Your [the Group of Ten] organizations continue to support and promote policies which emphasize the clean-

³³ Jim Igoe, *Reflections on Distance and Katrina*, ANTHROPOLOGY NEWS, Dec. 2006, at 9, 10.

³⁴ *Id.*

³⁵ Antonia Juhasz et al., *The True Cost of Chevron, An Alternative Annual Report*, The True Cost of Chevron 1 (May 2010), <http://truecostofchevron.com/2010-alternative-annual-report.pdf>.

³⁶ Alonso Soto, *Expert asks Ecuador court to fine Chevron \$27 billion*, Reuters:Environment (Nov. 27, 2008, 9:46 AM), <http://www.reuters.com/article/us-ecuador-chevron-suit-idUSTRE4AP97H20081127>.

³⁷ Mark Dowie, *Conservation Refugees*, ORION MAG:FEATURE, <https://orionmagazine.org/article/conservation-refugees/> (last visited Oct. 8, 2016).

up and preservation of the environment on the backs of working people in general and people of color in particular.³⁸

Let us return to Been's piece. Another model of fairness she describes is "progressive siting, wealthier neighborhoods receive more LULUs."³⁹ But this, too, is problematic. For example, if wealthier, resource rich neighborhoods were also home to biodiverse ecosystems, and contained disproportionate numbers of nonhuman communities, such as bees, whose well-being has an outsized impact on other species, these nonhuman communities would then face disproportionate or unbearable burdens.

In considering the above questions, when Robert Bullard, as quoted in *The Promise and Peril of Environmental Justice*, says "[n]o community, rich or poor, black or white, should be allowed to become a 'sacrifice zone,'"⁴⁰ our attention should be drawn to what is missing in his quote. "Rich or poor" is a standard of the market economy. Further, international environmental injustice is a problem often faced by subsistence affluent communities, communities that are materially rich, but lack the market resources for legal advocacy in the Western sphere. "Black or white" frames race in a dichotomy that ignores other axes of oppression, such as settler/indigenous, citizen/alien, and citizen/foreigner, the latter having the sub dichotomies of citizen/enemy with regard to war efforts leaving behind military toxins on foreign lands. And, of course, nonhuman communities should not be the sacrifice zones for human ones. The difficulty of siting locally unwanted land uses begs the question of whether these uses are appropriate anywhere. While not all LULUs can be eradicated, the central question regarding some of them is not where they should be sited, but whether they should occur at all. That is why some activists have moved from the acronym NIMBY (Not in My Backyard) to NIABY (Not In Anyone's Backyard).⁴¹

³⁸ Letter, *Circa Earth Day 1990*, in ENVIRONMENTAL JUSTICE: LAW, POLICY & REGULATION 22, 23 (Clifford Rechtschaffen et al. eds., 2009).

³⁹ BEEN, *supra* note 27, at 15.

⁴⁰ CHRISTOPHER H. FOREMAN JR., THE PROMISE AND PERIL OF ENVIRONMENTAL JUSTICE 117 (1998).

⁴¹ Sarah Crim, *The Nimby Syndrome In the 1990's: Where Do You Go After Getting to "No,"* 21 Env't Rep. (BNA) 133 (May 4, 1990).

IV THE BLACK (FAMILY) TREE

The aforementioned “Letter, Circa Earth Day 1990” states, “[w]e are artists, writers, academics, students, activists, representatives of churches, unions, and community organizations writing you to express our concerns about the role of your organization and other national environmental groups in communities of people of color in the Southwest.”⁴² Each of these demographics has its own reason for participating in drafting the letter. However, it is the “writer” demographic that will now be focused on. Why would writers of color contribute to a letter on environmental justice as opposed to some other social issue, or, alternatively, eschew the political sphere all together? To understand the environmental justice movement, one must appreciate its genealogy. When we examine the environmental justice movement’s family tree, we find its ancestors in the African American literary canon.

Consider, for example, the first novel ever published by an African American, Hannah Craft’s mid-nineteenth-century work, *The Bondwoman’s Narrative*. The book includes a scene in which a slave and the dog she cherished are hung (in the sense of being suspended, rather than hanged, i.e., being murdered with a noose), starved, and dehydrated to death. Afterwards, a seemingly sentient storm temporarily revives the woman and her dog with rain.⁴³ The merciless killing of the slave and her dog causes the plantation house to become cursed, prefiguring Dunbar’s cursed “Haunted Oak.”

This scene highlights the fact that when humans are marginalized, the nonhuman members of their communities are too. In this way, the book prophesized the tragedy that the Pets Evacuation and Transportation Standards Act remedies. The greatest tragedy is that many people, most of whom are racial minorities, indigenous, poor, or disabled, will not or cannot evacuate without their animals. The Pets Evacuation and Transportation Standards Act “amend[s] the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following

⁴² Letter, *supra* note 38, at 22–23.

⁴³ HANNAH CRAFTS, *THE BONDWOMAN’S NARRATIVE* 22–24 (2002).

a major disaster or emergency.”⁴⁴ While the Act is laudable, it is a shame it was passed after Hurricane Katrina. Had the legal community paid more attention to the environmental lessons taught in the African American literary canon, this Act might have been created before a crisis of Hurricane Katrina proportions occurred.

The law also suggests the sinister power of interest convergence. A photograph taken by Carolyn Cole, published in the *Los Angeles Times* on September 1, 2005, showed a plane full of animals rescued from the aftermath of Hurricane Katrina. The photograph aroused the ire of many who noted the irony of a wealthy white society failing to evacuate disproportionately minority and poor victims of the storms, while lavishing so much care on animals. Perhaps marginalized peoples’ desire to protect their animals (and in the case of the disabled, their need to) is only gratified when it converges with white people’s interest in protecting animals. Hauntingly, the reason the slave was killed was because her dog (in an unspecified manner) annoyed the slave’s owner, Sir Clifford, who then ordered the slave to drown it. Nearly a century and a half later, African Americans still lack the ability to protect the animals in their care, as evidenced most recently during Hurricane Katrina.

Similarly, Paul Laurence Dunbar could have put forward the concept of “sacrifice zones” in 1903 when he published his poem “The Haunted Oak.”⁴⁵ In “The Haunted Oak,” a human persona (presumably black) and a tree are able to converse about the shared suffering of nature and African Americans after a lynching. The victim is charged with rape.⁴⁶ Perhaps the lynch mob had been inspired by Rebecca Felton, the “pioneer”⁴⁷ who became America’s first female senator, and who claimed that white women were in such great danger of being raped that, if necessary, whites should lynch one thousand black men a week.⁴⁸

⁴⁴ Pets Evacuation and Transportation Standards Act of 2006, H.R. Con. Res. 3858, 109th Cong. (2006) (enacted).

⁴⁵ Paul Laurence Dunbar, *The Haunted Oak*, POETRY FOUNDATION, <https://www.poetryfoundation.org/poems-and-poets/poems/detail/44195> (last visited Oct. 22, 2016).

⁴⁶ *Id.*

⁴⁷ *Mrs. Felton Dies; Former Senator*, N.Y. TIMES, Jan. 25, 1930, <http://query.nytimes.com/gst/abstract.html?res=9B04E0D81739E03ABC4D51DFB766838B629EDE&legacy=true>.

⁴⁸ PHILIP DRAY, *AT THE HANDS OF PERSONS UNKNOWN: THE LYNCHING OF BLACK AMERICA* 124–25 (2003).

In promoting genocidal levels of violence against black men, Felton was doing more than advocating hate crimes; she was transforming black men into a sacrifice zone, into a type of people whose humanity could be forfeited. Both Lerner and “The Haunted Oak” demonstrate that when people are marginalized, so too are the spaces they inhabit and the nonhuman forms of life that also dwell there. Dunbar’s tree, anguished at being used for a lynching, is not so different from an oak struggling to survive poisoned air and soil in a contemporary black community. Thus, if slavery and genocide are America’s original sins, Crafts and Dunbar suggest that the oppression of marginalized people and their environments are linked, and that environmental injustice is the country’s original curse. Furthermore, their works made these observations long before “environmental injustice” was conceptualized as such in the 1980s.

Mildred D. Taylor’s 1975 children’s book, *Song of the Trees*, informed young readers of how institutional racism contravenes African Americans’ efforts to protect their environment, even before the environmental justice movement began. In the Depression era story, young African American siblings, playing in the forest on their family’s land, come upon two white men marking trees they intend to cut. The men take advantage of the fact the children’s father had traveled out of state for work, to use racial intimidation to threaten their elderly grandmother into signing a contract, which allowed them to cut down as many of the trees as they want for a sum of money. The men cut many of the trees, traumatizing the family who cherished them for having sheltered “Indians [who] had once built fires at their feet and sung happy songs of happy days,” as well as for having “hidden fleeing black men in the night and [who] listened to their sad tales of a foreign land.”⁴⁹

The African American family saw the trees as people, and recognized the trees as members of a community. But neither the African American’s epistemology nor property rights mattered to the white men. The men’s environmental injustice moved fluidly into a public health concern when one of the men assaulted the children, making them just a few of the many pre (and post) civil rights victims of racial violence. The children’s father returned home in time to halt the racial and ecological violence, but with a legal remedy de facto unavailable to him. He threatens to blow up the forest to end the

⁴⁹ MILDRED D. TAYLOR, *SONG OF THE TREES* 31, 34 (1975).

situation. The story is based on an actual event the author's family experienced.

Consequently, it is not surprising that writers were part of the group whose letter radically criticized the mainstream environmental movement because black writers are often attuned to gaps and failings in mainstream movements. Consider, for example, this poem by Tupac Shakur:

The Rose that Grew from Concrete

Did u hear about the rose that grew
from a crack in the concrete?
Proving nature's laws wrong it
learned 2 walk without having feet.
Funny it seems but by keeping its dreams
it learned 2 breathe fresh air.
Long live the rose that grew from concrete
when no one else ever cared!⁵⁰

Tupac Shakur, a hip-hop artist and poet from Oakland, California, is known for representing the west coast during the East Coast–West Coast hip-hop rivalry of the 1990s.⁵¹ Urban Californian African Americans, as well as other minority groups, are currently engaged in another battle on the West Coast. This battle is not for musical dominance, but for more roses and less concrete as they participate in the urban parks movement.⁵² To Shakur's persona, the odds against a rose growing "from a crack in the concrete" are so high that such an event should be heralded as heroism. Similarly, the odds of youth developing healthily without access to green spaces are equally unlikely. In their article *Anatomy of the Urban Parks Movement: Equal Justice, Democracy, and Livability in Los Angeles*, Robert García and Erica Flores note, "[t]he human need for parks, school yards, and active recreation, and its implications for human health, are profound."⁵³ They

⁵⁰ TUPAC SHAKUR, *THE ROSE THAT GREW FROM CONCRETE* 3 (2009).

⁵¹ Nsenga Burton, *Man Says He Shot Tupac at Quad Studio*, ROOT (June 16, 2011), http://www.theroot.com/articles/culture/2011/06/dexter_isaac_says_he_shot_Tupac_at_quad_studio/.

⁵² Robert García & Erica S. Flores, *Anatomy of the Urban Parks Movement: Equal Justice, Democracy, and Livability in Los Angeles*, in *THE QUEST FOR ENVIRONMENTAL JUSTICE: HUMAN RIGHTS AND THE POLITICS OF POLLUTION* 159 (Robert D. Bullard ed., 2005).

⁵³ *Id.* at 145.

also comment, “[i]n the aftermath of the riots and rebellion that followed the acquittal of the police officers in the state trial involving the Rodney King beating, gang members issued a manifesto calling for peace and listing the shortage of parks and open spaces as one of their major concerns.”⁵⁴ Shakur’s metaphor is not arbitrary. The poet was drawing on real local material conditions.

Unfortunately, as García and Flores note, “[i]n Los Angeles, there are unfair disparities in access to parkland, playgrounds, beaches, and recreation based on race, ethnicity, and class.” Concretely, “[f]or example, within Baldwin Hills State Park (or within a five-mile radius of it), which lies at the historical heart of African American Los Angeles, there is . . . one playground for every 23,000 children.”⁵⁵

Yet equity in access to green space is not the only environmental issue the poem links to. “Funny it seems, but by keeping its dreams/it learned to breathe fresh air,” the verses read. Here we are given more information about the rose’s environment. Not only does the plant lack soil, but also fresh air is a dream unrealized. Many African Americans share that dream today.

In his essay *Environmental Justice in the Twenty-First Century*, Robert Bullard states,

[a] 2000 study by the American Lung Association shows that children of color are disproportionately represented in areas with high ozone levels. Additionally, 61.3 percent of black children . . . live in areas that exceed the ozone standard of .08 parts per million, while only 50.8 percent of white children live in such areas.⁵⁶

Furthermore, as one might extrapolate from Shakur’s poem, the areas that have the most concrete have the worst air quality. In their essay *Environmental Inequity in Metropolitan Los Angeles*, Manuel Pastor Jr., James L. Sadd, and Rachel Morello-Frosch write, “African Americans . . . are concentrated mainly in the urban core, where pollution levels and risks tend to be higher, while Anglos live primarily in less urban areas, where risks are lower.”⁵⁷ Shakur’s poem concludes,

⁵⁴ *Id.* at 146.

⁵⁵ *Id.* at 147.

⁵⁶ Robert D. Bullard, *Environmental Justice in the Twenty-First Century*, in *THE QUEST FOR ENVIRONMENTAL JUSTICE: HUMAN RIGHTS AND THE POLITICS OF POLLUTION* 34 (Robert D. Bullard ed., 2005).

⁵⁷ Manuel Pastor Jr., et al., *Environmental Inequity in Metropolitan Los Angeles*, in *THE QUEST FOR ENVIRONMENTAL JUSTICE: HUMAN RIGHTS AND THE POLITICS OF POLLUTION* 117 (Robert D. Bullard ed., 2005).

“Long live the rose that grew from concrete/ when no one else ever cared.” The last line speaks of an indifference all too familiar to those who live in places where too much concrete, and too few green spaces, make it difficult for both plants and young people to grow, and where clean air is but a dream. This indifference is a form of environmental racism.

With all this in mind, what sort of laws might Shakur’s poem inspire? In his book *Environmental Justice: Legal Theory and Practice*, Barry E. Hill observed that “no environmental justice legislation ha[s] been enacted at the federal level.”⁵⁸ However, he noted “a significant number of states have enacted environmental justice legislation.”⁵⁹ Hill then listed the twelve environmental justice laws on the books in Shakur’s home state of California. Four of those laws, Senate Bill 115, Senate Bill 89, Senate Bill 828, and Assembly Bill 2312, establish, coordinate, and commission environmental justice programs. Additionally, Assembly Bill 1553 “required that environmental justice be addressed in the state’s General Plans,” while Assembly Bill 1360 “required Cal-EPA to maintain a system of environmental indicators.” The remaining laws, Senate Bill 32, Assembly Bill 1390, Senate Bill 1542, Assembly Bill 1497, Senate Bill 352, and Senate Bill 76, are single issue bills that examine toxic waste cleanup, reduction in diesel emissions, siting of waste disposal facilities, notification of changes related to solid waste facilities, siting of schools in relation to high traffic roadways, and Hydrogen Highway facility siting, respectively.⁶⁰

Are these laws enough to change the situation described in Shakur’s poem? I say “no.” The first six laws, Senate Bills 115, 89, and 828, and Assembly Bills 2312, 1553, and 1360, offer no specific legal remedies for urban black youths growing up without equal access to green spaces and fresh air. The last six, Senate Bills 32, 1542, 352, and 76 and Assembly Bills 1390 and 1497, do proactively address specific environmental issues, but in piecemeal fashion. I argue this is because too many environmental justice laws are written in the genre of environmental legislation, and center on specific environmental problems rather than victimized populations. In contrast, Shakur’s poem takes a more integrated look at the environmental injustice that keeps both plants and people from thriving; it references the lack of

⁵⁸ BARRY E. HILL, *ENVIRONMENTAL JUSTICE: LEGAL THEORY AND PRACTICE* 127 (2nd ed. 2009).

⁵⁹ *Id.* at 159.

⁶⁰ *Id.* at 172.

green spaces, lack of fresh air, and environmental racism, all in eight lines. If California used African American literature to inspire their lawmaking, then the state might be inspired to address multiple environmental justice issues together. These laws need to target people, rather than the problems they suffer, and the center of legislation should be to make environmental justice laws that are more like civil rights laws.

Shakur's poem reminds us that oppressed people do not experience injustices in discrete parts, but as a coherent whole, something the Civil Rights Act of 1964 (the Act) recognizes. The Act outlaws discrimination and segregation in voting, public accommodations, public facilities, public education, federally assisted programs, and employment.⁶¹ By placing racial minorities rather than racial injustice at the center of the law, the Act bans several different forms of injustice that minorities face all at once.

If environmental justice laws resembled civil rights legislation more, they would compound multiple matters and would be people, rather than issue, focused. For example, this might come in the form of a law that recognizes a right to green space and bars racially disproportionate siting of highly polluting entities of any sort. Such a law could be a civil rights act that bars multiple forms of environmental discrimination in the same way the Civil Rights Act barred multiple forms of civic and social discrimination. Such a law would recognize that the essence of environmental justice is not writing policies with the vocabulary of environmental justice programs or toxic waste cleanup, but reflects the relationship between marginalized peoples and their rights. Shakur's poem highlights how African American literature could continue to play a prophetic role for the environmental and environmental justice movements.

Kimberley N. Ruffin observed that African Americans are,

[e]xperienced with the triumphs and troubles of life among those at the bottom of human hierarchies, [and] have a keen knowledge of the ecological implications of social systems; at the same time, their closeness to nonhuman nature, both forced and voluntary, gives them an opportunity to reflect on how these social systems have ecological impacts for nonhumans.⁶²

⁶¹ *Major Features of the Civil Rights Act of 1964*, CONGRESSLINK, (Oct. 2, 2016), <http://www.4uth.gov.ua/usa/english/society/rights/essay.html>.

⁶² KIMBERLY N. RUFFIN, *BLACK ON EARTH: AFRICAN AMERICAN ECOLITERARY TRADITIONS* 20 (Univ. of Georgia Press 2010).

Since African Americans are canaries in the (global warming-induced) coal mine, it is not surprising that African American literature foreshadows the directions that environmental and environmental justice movements move.

Another reason African American writers are uniquely equipped for leadership in the environmental justice movement is that they are part of a tradition that has preserved a literary record of marginalized peoples' experiences of nature. This has left African Americans uniquely attuned to the environment's vulnerabilities. This record further lends credence to the Letter writers' assertion that "[f]or centuries, people of color in our region have been subjected to racist and genocidal practices including the theft of lands and water, the murder of innocent people, and the degradation of our environment."⁶³ For example, Charles Chesnutt's story "Po' Sandy" analogizes the violence toward African Americans and the environment in a brutal scene in which a slave, who has been transformed into a tree, is chopped down.⁶⁴ In Toni Morrison's *The Bluest Eye*, Pauline Breedlove remembers a white obstetrician saying she will give birth as painlessly as a mare. In response to this remark, Pauline mentally argues for her humanity and also acknowledges horses, too, feel pain.⁶⁵

To wit, another book by Morrison, *Sula*, a black community called "The Bottom" is founded when a white slave-owner gives hilly and poor land to his former slave, and describes his gift as the bottom of heaven. However, the community became endangered when wealthy whites coveted the land for a golf course. Morrison showed how ignorance resulting from violent, racist atrocity, and economic disparities determines what land African Americans can possess and for how long. Morrison's message is echoed in another children's novel by Mildred D. Taylor, *The Land*. There, African Americans named Paul, Mitchell, and Caroline strove to become landowners despite the harassment of a white alcoholic, and almost being cheated of their investment by the current white owner of the property. Further, in Nigerian American Nnedi Okorafor-Mbachu's story, "Spider the Artist," neocolonial oil drilling harms both the indigenous people of

⁶³ Letter from Richard Moore, Co-Director, Southwest Organizing Project, to Jay D. Hair, President, National Wildlife Federation 1 (May 16, 1990), <http://www.ejnet.org/ej/swop.pdf>.

⁶⁴ CHARLES W. CHESNUTT, *Po' Sandy*, in *THE CONJURE STORIES: NORTON CRITICAL EDITIONS 19* (Robert B. Stepto & Jennifer Rae Greeson eds., 2012).

⁶⁵ TONI MORRISON, *THE BLUEST EYE* 125 (1970).

West Africa and the environment. Finally, in *Salvage the Bones* by Jesmyn Ward, a poor black family in Mississippi prepares for Hurricane Katrina. The book illustrated the comment made by many after the storm, “there’s no such thing as a natural disaster.” The novel showed how even a peril as objectively neutral as a hurricane delivers racialized harms.

Examples are found in poetry as well as prose. Nikki Giovanni’s piece “Sanctuary: For Harry Potter the Movie,” used the hero’s survival of an attack by an evil wizard to examine and fuse together African American, Native American, and Jewish experiences of suffering, and to juxtapose these harms with those of elephants, manatees, and the savannah, all of which are victims of environmental crimes.⁶⁶ In another work, Frank X Walker’s “The River Speaks,” a flowing river during the nineteenth century is related to African American suffering because whites dam waterways and enslave blacks.⁶⁷ Additionally, “Arachis Hypogaea” by Marilyn Nelson, a poem ostensibly about George Washington Carver, is really about the foresight of anonymous slaves who acted en masse to hide peanut seeds in their hair during the Middle Passage so the plant could sustain their descendants.

Another reason African American writers uniquely value nature is because they are custodians of a tradition that uses the environment, particularly plants, as a means of rejecting or celebrating survival of white supremacy. “The Brown Legacy (To a Brown Boy),” by Effie Lee Newsome, claimed “‘Tis a noble gift to be brown” because brown is the color of “the strongest things that make up this earth,” such as mountains and tree trunks.⁶⁸ Another poem, “Portraiture,” by Anita Scott Coleman, saluted black men as representing “the tall trees that remain / Standing in a forest after a fire.”⁶⁹ Consider also Aimé Césaire’s epyllion, or mini-epic, *Notebook of a Return to the Native Land*. The persona defined his négritude, his affirmation of blackness and rejection of French white supremacy, in nature metaphors. “My négritude is not a stone, its deafness hurled against the clamor of the day / my négritude is not a leukoma of dead liquid over the earth . . . it takes root in the red flesh of the soil / it takes root in the ardent flesh of

⁶⁶ GIOVANNI, *supra* note 1, at 88–89.

⁶⁷ FRANK X WALKER, *WHEN WINTER COME: THE ASCENSION OF YORK* 14 (2008).

⁶⁸ SHADOWED DREAMS: WOMEN’S POETRY OF THE HARLEM RENAISSANCE 117 (Maureen Honey ed., 1989).

⁶⁹ *Id.* at 199.

the sky.”⁷⁰ He then segues into a nature-imagery saturated rhetoric: “all our blood aroused by the male heart of the sun / those who know about the femininity of the moon’s oily body / the reconciled exultation of antelope and star / those whose survival walks on the germination of the grass.”⁷¹ The persona reaches continually into the natural world to express his human subjectivity.

Finally, at the poem’s conclusion, Césaire’s persona cries,

bind me with your vast arms of luminous clay / bind my black vibration to the very navel of the world. . . . Then, strangling me with your lasso of stars / rise, Dove / rise / rise / rise. . . . Rise sky licker / And the great black hole where a moon ago I wanted to drown / It is there I will now fish the malevolent tongue of the night / in its motionless veerition!⁷²

The articulation of his revised, revived, new human identity culminates in his pleas to become part of the landscape itself, “bound” to the world, “strangled” by stars, or to go “fishing” in the heavens.

Finally, African American writers’ advocacy of nature is inspired by a literary tradition of texts that form what could be called “Black Green liberation theology.” One instance is exemplified in Alice Walker’s *The Color Purple*. Celie reflected on God with Shug:

Well, us talk and talk bout God, but I’m still adrift. Trying to chase that old white man out of my head. I been so busy thinking bout him I never truly notice nothing God make. Not a blade of corn (how it do that?) not the color purple (where it come from?). Not the little wildflowers. Nothing.⁷³

The intersecting oppressions of white supremacy, patriarchy, and even speciesism, which is the idea humans are worth more than nonhumans, have created for Celie a god who reflects human hierarchies, rather than a deity who aids the oppressed in transcending them. This Creator displaces his own creation, particularly the natural world. That’s a problem because, according to Shug, it’s nature that liberates you from theologies that are little more than the reflection of human pathology.⁷⁴ At the end of the novel, when Celie has triumphed, her theology reflects her new stature. Celie begins the book writing to God, an imagined

⁷⁰ AIMÉ CÉSAIRE, NOTEBOOK OF A RETURN TO THE NATIVE LAND 41 (A. James Arnold & Clayton Eshleman trans., bilingual ed., 2005) (1939).

⁷¹ *Id.* at 42.

⁷² *Id.* at 57.

⁷³ ALICE WALKER, *THE COLOR PURPLE* 196–97 (First Harvest ed., 2003).

⁷⁴ *Id.* at 203.

white male, divine human as her only audience, but when she describes the day Nettie, Samuel, Adam, and Olivia return to Georgia, the text sings out, “DEAR GOD. DEAR STARS, DEAR TREES, DEAR SKY, DEAR PEOPLES. [sic] DEAR EVERYTHING. DEAR GOD.”⁷⁵ Celie has converted to a nature-based, non-speciesist faith, and her epistles are addressed to humans, nonhumans, and the divine, as all of them are worthy of her testimony. While subscribing to a spirituality that renders diverse forms of creation as being as holy as God, Celie is not spiritually marginalized for her race or gender.

Alice Walker’s “green” theology links *The Color Purple* to other works in the African American literary canon. In her preface to the edited volume *Alice Walker and Zora Neale Hurston: The Common Bond*, Lillie P. Howard discusses the essence of Alice Fannin’s essay “A Sense of Wonder: The Pattern for Psychic Survival in *Their Eyes Were Watching God* and *The Color Purple*” saying “for each woman [Janie and Celie], then, psychic survival depends . . . not so much on greater self-awareness and independence . . . but on the vision of the self as a wondrous part of a Creation that is itself, ‘wondrously and fearfully’ made.”⁷⁶ It is true that, in terms of the biocentrism she develops, Celie becomes a heroine in the model of Janie. Yet Celie’s nature-based liberation theology links her to a broader tradition in the African American canon, as well.

Celie’s experience of turning to nature to revise her originally oppressive faith is echoed in Marilyn Nelson’s poem “Professor Carver’s Bible Class.” In that class, taught by George Washington Carver, a black man learns that nature is a medium for communicating with a friendly God, and he is cured of his servile faith “Professor Carver’s class gave me the means / to liberation from that slavish faith. . . . He taught us that . . . all of nature . . . is a vast broadcasting system. . . . *Your Creator*, he said, *is itching to contact you!*”⁷⁷ The poem draws on Carver’s own writing: “I love to think of nature as unlimited broadcasting stations, through which God speaks to us every day, every hour and every moment of our lives, if we will only tune in and remain

⁷⁵ *Id.* at 285.

⁷⁶ LILLIE P. HOWARD, *Preface, to ALICE WALKER AND ZORA NEALE HURSTON: THE COMMON BOND* xv–xvi (Lillie P. Howard ed., Greenwood Press 1993).

⁷⁷ MARILYN NELSON, *CARVER: A LIFE IN POEMS* 75 (2001).

so.”⁷⁸ This statement shows us just how early in the African American literary tradition “green” spiritual ideas appear.

A specific quality of African American “green” spirituality is the idea of the interconnectedness of all creation. In the aforementioned discussion between Celie and Shug, Shug says that on her spiritual journey away from the idea of God as an “old white man” she had a revelation that if she cut a tree, her arm would bleed.⁷⁹ Shug says the moral of her revelation was that she was “part of everything,” that everything is connected.⁸⁰ African American literature, looked at canonically, goes one step further. Just as Catholic social teaching insists, though God loves all, there is a “preferential option for the poor.”⁸¹ *The Color Purple*, and the other black texts I have considered, suggests that while everyone and everything is connected, this is truer for victims of social injustice, such as African Americans. While all people might find comfort in nature, only oppressed peoples require nature to serve as the balm for their racial fatigue. It is from this unique cultural position that the black writers who contributed to the Earth Day letter speak.

V

SAVAGE CONSERVATION

One of the major critiques in the 1990 Earth Day letter, is that conservation organizations:

[A]re being supported by corporations such as ARCO, British Petroleum, Chemical Bank, GTE, General Electric, Dupont, Dow Chemical, Exxon, IBM, Coca Cola, and Waste Management, Incorporated. Several of these companies are known polluters whose disregard for the safety and well-being of workers has resulted in the deaths of many people of color. It is impossible for you to represent us in issues of our own survival when you are accountable to these interests. Such accountability leads you to pursue a corporate strategy towards the resolution of the environmental crisis, when what is

⁷⁸ GEORGE WASHINGTON CARVER, *GEORGE WASHINGTON CARVER: IN HIS OWN WORDS* 143 (Gary R. Kremer eds., Univ. of Missouri Press 1987).

⁷⁹ WALKER, *supra* note 73, at 203.

⁸⁰ *Id.*

⁸¹ *Option for the Poor and Vulnerable*, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, <http://www.usccb.org/beliefs-and-teachings/what-we-believe/catholic-social-teaching/option-for-the-poor-and-vulnerable.cfm> (last visited Oct. 12, 2016).

needed is a people's strategy which fully involves those who have historically been without power in this society.⁸²

I will provide that evidence of this assertion is not with African American literature, but with a black/indigenous ecocritical reading of a Houston Zoo project called "The African Forest," which opened in December 2010. According to the Zoo's website, The African Forest is not just about exhibiting "magnificent wildlife and beautiful habitats. It is also about people and the wonderful, rich cultures that we all can share."⁸³ However, a close reading of The African Forest's texts show the project is really about exhibiting and teaching inaccurate Western conceptions of African and indigenous cultures, in a place designed to exhibit and teach about animals. The African Forest is also about displacement in the name of conservation.

According to the Zoo's website, The African Forest includes an "African Marketplace Plaza," selling gifts "from all over the world" and offering dining with a "view of giraffes;" a "P*gmy⁸⁴ Village and Campground" showcasing "African art, history, and folklore" where visitors cans stay overnight; "P*gmy Huts" where visitors will be educated about "p*gmys" and "African culture," hear stories, and be able to stay overnight; a "Storytelling Fire Pit;" an "Outpost" where visitors, while getting refreshments, will view posters "promoting ecotourism, conservation messages, and African wildlife refuges;" a "Communications Hut and Conservation Kiosk" where "visitors will use a replicated shortwave radio and listen in on simulated conversations taking place throughout Africa;" a "Rustic Outdoor Shower" representing the fact that the fictional "P*gmy Village" "recently got running water" where children can "cool off;" a section of the "P*gmy Village" where children can handle "African musical instruments and artifacts;" and "Tree House Specimen Cabinets" that showcase "objects, artifacts, and artwork."⁸⁵

⁸² Moore, *supra* note 63, at 3.

⁸³ Peter Riger, *Human Dimensions of Wildlife Conservation*, THE HOUSTON ZOO BLOG, (Dec. 29, 2009), <http://www.houstonzoo.org/blog/human-dimensions-of-wildlife-conservation/>.

⁸⁴ "Pygmy" is often considered a derogatory term. The respectful form of nomenclature is the proper name of the ethnic group in question. Therefore, throughout my note, I will be using the term modified with an asterisk.

⁸⁵ *The African Forest at the Houston Zoo*, Houston Zoo (2010), https://issuu.com/houstonzoo/docs/winter_wildlife_af_2010.

In his satirical article *How to Write About Africa*, Binyavanga Wainaina mocks the ignorant and stereotypical way that Westerners write about his home continent.⁸⁶ He counsels: “[e]stablish early on that your liberalism is impeccable, and mention near the beginning how much you love Africa. . . . Africa is to be pitied, worshipped or dominated. Whichever angle you take, be sure to leave the strong impression that without your intervention and your important book, Africa is doomed.”⁸⁷ He continues, “[a]nimals, on the other hand, must be treated as well rounded, complex characters. . . . Any short Africans who live in the jungle or desert may be portrayed with good humour (unless they are in conflict with an elephant or chimpanzee or gorilla, in which case they are pure evil).”⁸⁸

In order to provide a close reading of the Zoo’s texts, I will first need to quote extensively from the institution’s materials. The Zoo says,

The African Forest will transform the way Houstonians view the world providing visitors with a glimpse into the remote forests of central Africa and the distinctive people that call it home. By understanding and appreciating the challenges these people face, we will be better equipped to work with them to preserve our fragile world and to make it a better place for future generations.⁸⁹

Jim Brighton, a landscape architect with the project, stated in the *Houston Chronicle*, “[t]raditional zoo exhibits concentrate on animals, what they eat, how big they are and so forth. This delves into habitat; conflict between man and the wild. And it tells these things in story fashion, from beginning to end.”⁹⁰ The Zoo also said in its description of The African Forest, that the project contains an “Outpost” where visitors, while getting refreshments, will view posters “promoting ecotourism, conservation messages, and African wildlife refuges.”⁹¹

Finally, the Zoo’s blog states,

What we frequently do not discuss is the human component of wildlife conservation. What are we doing to enact the “careful preservation and protection of something” if that something is the

⁸⁶ Binyavanga Wainaina, *How to Write About Africa*, 92 GRANTA: THE VIEW FROM AFRICA, Jan. 19, 2006, <http://granta.com/How-to-Write-about-Africa/>.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *The African Forest at the Houston Zoo*, *supra* note 85, at 6.

⁹⁰ Allan Turner, *Houston Zoo Starting Work on \$50 million African Forest*, HOUS. CHRON., (July 28, 2009, 5:30 AM), <http://www.chron.com/news/houston-texas/article/Houston-Zoo-starting-work-on-50-million-African-1732234.php>.

⁹¹ *The African Forest at the Houston Zoo*, *supra* note 85, at 14.

people who have historically lived side-by-side with the wildlife we intend to protect? To that end, the Houston Zoo's conservation efforts will focus on developing wildlife, habitat, and human community support programs in central Africa in 2010.⁹²

Right now, there are few places left on earth where humans do not coexist with native wildlife. There are also very few national parks and protected areas on earth where humans did not coexist with wildlife before these park boundaries were put in place. Finally, there are even fewer places where the decision to designate a protected area does not somehow intimately affect the human population living around its borders.

If the ability for native people to coexist with their habitat is taken away from them without offering a sustainable solution, then wildlife and habitat conservation efforts are bound to fail. The most successful wildlife conservation efforts are those in which indigenous communities are empowered in the management of local natural resources and supported through capacity building programs. "Model community initiatives lead to socioeconomic and conservation gains by establishing and strengthening alternative community initiatives for sustainable development which can be compatible with the long term conservation of local natural resources. Today, wildlife is much more valuable alive than dead."⁹³

The Houston Zoo speaks in a way that suggests they took Mr. Wainaina's advice literally. The Zoo has picked a liberal cause: being green by protecting the environment and wildlife. The Zoo has a condescending and distorted view of Africa; Africans are in conflict with wildlife, and it is appropriate to displace Africans to protect wildlife as long as you give them some alternative development. The Zoo believes Africa is doomed without Western help, and "we" have to protect imperiled wildlife from Africans. The Zoo sees African animals as more "human" than African humans, and condones displacing African people to protect African animals. Last, but not least, the Zoo sees p*gmies as in conflict with wildlife, and posits them as the antagonists in those conflicts.

According to the Houston Zoo, anyone who comes to the Zoo, no matter who they are, is in a position to help/teach indigenous Africans. Native Africans have challenges; we have answers. They need help; we

⁹² Riger, *supra* note 83.

⁹³ *Id.*

come to the rescue. They live in central Africa and have millennia of knowledge on how to care for their environments, but we are the ones in the position to tell them what to do.

The Zoo states that the reason we should learn about central indigenous Africans is so that we can understand Africans' challenges and help them. There is a power structure implicit in that idea. The only reason to learn about African cultures is to dominate them. As Munir Fasheh, formerly of the Center for Middle Eastern Studies at Harvard University, says, "It always fascinated me how difficult it is for Europeans and Americans to learn from other cultures. What is referred to as 'area studies' in western universities do not, in general, refer to learning from but about other cultures, usually in order to control."⁹⁴ Furthermore, as anti-racist scholar Tim Wise notes, multiculturalism leads to nonwhites being demeaned: "diversity talk avoids issues of power and privilege, opting instead for cultural tourism."⁹⁵

The Zoo's quote is also gallingly hypocritical. Is it typically Western corporations or African corporations that raise animals on cruel factory farms or profit from the brutal fur industry? Is hunting recreationally part of an African or Western ethos? Is it primarily indigenous Africans or Westerners who own polluting industries, such as mining industries? Where are the corporations located that use the resources that are mined, and who are the corporations that create toxins that are threatening the well-being of animals and people alike? Why, beyond racism, would the Zoo focus on changing the behavior of people who do far less to harm animals and the environment worldwide, than Westerners do? If the Zoo truly wanted to help African animals, and indigenous African people, in a way that supports the sovereignty of Africans, there are many things they could do. For example, Westerners could challenge the transboundary waste trade in which Western nations and corporations dump their toxins in Africa, poisoning both people and animals. Or Westerners could take on any of the anti-nature and anti-wildlife sins Western people perpetrate, which were listed above. In "The African Forest," Western people accuse Africans of not properly caring for the environment and wildlife, while at the same

⁹⁴ Letter from Munir Fasheh, Center for Middle Eastern Studies, Harvard Univ., to Pope Benedict (Feb. 8, 2010), http://www.swaraj.org/shikshantar/openlettertopope_english.htm.

⁹⁵ Tim Wise, *Majoring in Minstrelsy: White Students, Blackface and the Failure of Mainstream Multiculturalism*, LIP MAG. (June 22, 2007), <http://www.racismreview.com/blog/2010/02/26/majoring-in-minstrelsy-white-students-blackface-and-the-failure-of-mainstream-multiculturalism/>.

time playing a disproportionately larger role than any of the earth's other peoples in destroying the environment and wildlife. As Munir Fasheh says, "[t]alking about 'ensuring environmental sustainability' without talking about reversing the current pattern and level of consumption (and its role in global warming) is again a sign of lack of honesty and courage."⁹⁶

However, the only way to respect indigenous Africans is also the only way to help wildlife, by respecting the sovereignty of indigenous African peoples. If the Zoo truly wanted to help wildlife, and truly respected African peoples, they would support the environmental principles of nonwhite people, such as principle number five of the Principles of Environmental Justice adopted by the People of Color Environmental Leadership Summit. This principle says, "Environmental justice affirms the fundamental right to political, economic, cultural, environmental self-determination for all peoples."⁹⁷ The Zoo would honor international agreements such as Agenda 21, which states,

Indigenous people and their communities represent a significant percentage of the global population. They have developed over many generations a holistic traditional scientific knowledge of their lands, natural resources and environment. Indigenous people and their communities shall enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination.⁹⁸

Numerous other resolutions, including the United Nations' Declaration on the Rights of Indigenous Peoples, say, "[i]ndigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation, and where possible, with the option of return."⁹⁹ The language of these resolutions affirms that indigenous peoples have the

⁹⁶ MUNIR FASHEH, *A Fragmented Universe*, in WHAT'S THE REAL STORY? GENERATING A DIALOG AROUND THE MDGs. 27, 30 (Shikshantar Andolan 2008), <http://www.swaraj.org/shikshantar/rethinkMDGs.pdf>.

⁹⁷ *Principles of Environmental Justice*, YES! MAG. (Mar. 31, 2003), <http://www.yesmagazine.org/issues/our-planet-our-selves/principles-of-environmental-justice>.

⁹⁸ Lee Pera & Deborah McLaren, *Globalization, Tourism & Indigenous Peoples: What You Should Know About the World's Largest Industry*, PLANETA.COM:THINK SMART, TRAVEL SLOW (Apr. 23, 2011), <http://www.planeta.com/planeta/99/1199globalizationrt.html>.

⁹⁹ G.A. Res. 61/295, Declaration on the Rights of Indigenous Peoples (Sept. 13, 2007), http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

right to remain on their land, and to manage their environments and wildlife as they see fit. Actions that violate those rights are not analogous to taking someone's land to make room for a highway; they are a violation of indigenous peoples' right to self-determination, as well as their individual, and communal human rights.

When asked to speak on a human zoo-like spectacle entitled The Colonial Exhibition, University of Santa Clara's History Professor Michael G. Vann responded,

[a]s a state-sponsored exhibition, the event sought to portray the empire as loyal and valuable. There was no mention of anti-colonial agitation or the serious rebellions that were going on in Vietnam at the time. Rather, the colonial subjects were presented as obedient and hard-working. Fascinating in their strange costumes and odd behaviour, these natives were nothing to fear, rather, they were a great asset to France.¹⁰⁰

A hallmark of the human zoo is that it omits any narrative of resistance by nonwhites to whatever "help" human zoos, and their patrons, and the societies of those patrons, are claiming to give. The Houston Zoo's website proudly describes the various ways in which the Zoo, and Zoo patrons, can help indigenous Africans protect wildlife. But just as nonwhite peoples resisted imperialism in the past, they continue to resist the West's imperialist environmental practices, including those promoted by the Zoo. The Earth Day letter proves such resistance had been articulated for at least twenty years.

The African Forest dares to teach Zoo patrons that indigenous Africans are in conflict with wildlife. The claim that indigenous Africans harm animals is a well-established tactic to violate Africans' human rights, and to drive them from their traditional lands. This claim, here asserted by the Zoo, is often made in cahoots with organizations such as the World Bank, NGOs, and corporations. For example, the government of Botswana lied to the international community by stating that Bushmen had been killing wildlife so the government could justify stealing Bushmen's land; land under which DeBeers Diamond Company was interested in mining for diamonds.¹⁰¹ Additionally, Houston Zoo African Forest exhibits that depict p*gmies as in conflict

¹⁰⁰ Michael G. Vann, *The Colonial Exhibition of May 1931*, UNIV. OF PORTSMOUTH FRANCE 1815 TO 2003 (Mar. 17, 2004, 11:25 AM), <http://www.port.ac.uk/special/france1815to2003/chapter6/interviews/filetodownload,18533,en.pdf>.

¹⁰¹ *Government lies on Bushman hunting exposed*, SURVIVAL INT'L (June 8, 2005), <http://www.survivalinternational.org/news/699/>.

with wildlife further this myth. The Batwa p*gmy people, according to the tribal rights group Survival International,¹⁰²

[H]ad lived for generations before and after 1930 without destroying the forest or its wildlife, and even had historical claims to land rights, only received compensation if they had acted like farmers, and destroyed part of the forest to make fields. Despite legal provision for Batwa to use and even live within the national parks (Ugandan Wildlife Statute, No. 14, 1996, sections 23-6) they remain excluded from them. Access to the parks is controlled by the Mgahinga and Bwindi Impenetrable Forest Trust, the NGO CARE and the Uganda Wildlife Trust; it is negotiated through ‘multiple use committees’ which include almost no Batwa representation. This exclusion is encouraged by the stereotype which represents the Batwa as destroyers of the gorillas. In fact, however, Batwa do not eat gorillas, and they have coexisted with them for centuries. Any gorilla-hunting they may engage in is done at the instigation of others. Nevertheless, the Batwa are stigmatised as gorilla-slayers and poachers, and get the blame for any poaching that occurs.¹⁰³

Survival International also notes,

the Aka, like all of the ‘P*gmy’ peoples in Central Africa, are under threat. More and more of the forest is being depleted by logging companies, while huge areas of good forest have been turned into parks or wildlife reserves that are *guarded by armed thugs who beat up the P*gmies and drive them out of their ancestral hunting grounds*. And yet the P*gmies are the real guardians of the forest. As their proverb explains: “We Aka love the forest as we love our own bodies” (emphasis added).¹⁰⁴

The African Forest frames indigenous Africans as being in conflict with animals, even though this is a dishonest accusation and is propaganda to drive African peoples from their indigenous lands.

The writers of the Earth Day letter accuse Exxon, in particular, of engaging in greenwashing and hypocritical practices. An employee representing Exxon Mobil Corporation is on the Houston Zoos’ Board of Directors.¹⁰⁵ Exxon is well known for the Valdez Oil Spill and the Greenpoint Oil Spill. Despite Exxon’s apparent eagerness to support

¹⁰² *Id.*

¹⁰³ *Discrimination and the ‘Pygmy’* SURVIVAL INT’L, <http://www.survivalinternational.org/material/20> (last visited Oct. 4, 2016).

¹⁰⁴ *Songs from a Forest in danger*, SURVIVAL INT’L (Oct. 12, 2003), <http://www.survivalinternational.org/news/93>.

¹⁰⁵ *About the Zoo*, HOUSTONZOO.COM, <http://www.houstonzoo.org/about-the-zoo/> (last visited Oct. 3, 2016).

the Houston Zoo, they were recently accused of harming endangered gray whales.¹⁰⁶

Another member of the Zoo's Board of Directors is an employee representing Shell Downstream, Inc.¹⁰⁷ Royal Dutch Shell, the parent company of Shell Downstream, is a multinational petroleum company notorious for being accused of committing crimes against humanity, abusing African indigenous people, torturing people,¹⁰⁸ and poisoning the environment. In addition to these atrocities, the company is believed to have helped facilitate the execution of legendary environmental and indigenous rights leader Ken Saro-Wiwa, and eight other indigenous Ogoni Africans, who protested the theft of Ogoni land for oil extraction.¹⁰⁹ Recently, the Federal High Court of Nigeria condemned the company for "violating the constitutional 'rights to life and dignity,'" practices that continued at least through 2008.¹¹⁰ (And which are the very same practices condemned in the aforementioned "Spider the Artist"). Shell, in addition to its other human rights violations, also creates conservation refugees.¹¹¹ The Houston Zoo could help indigenous Africans and animals by working to change the behavior of Shell. Instead, the Zoo accepts money from Shell, thereby condoning the company's human rights abuses, and the displacement of indigenous Africans for the extraction of oil, which also results in harm to the environment. Exxon displaces Africans under the guise of helping the environment (by facilitating conservation) and Africans themselves (by helping them adapt to being displaced by conservation).¹¹²

¹⁰⁶ *Exxon Operation Threatens Endangered Western Gray Whales in Russia*, WORLD WILDLIFE FUND (July 11, 2016), http://wwf.panda.org/wwf_news/?273050/Exxon-operations-threatens-endangered-western-gray-whales-in-russia.

¹⁰⁷ *About the Zoo*, *supra* note 105.

¹⁰⁸ *Wiwa v. Royal Dutch Shell Case History*, EARTH RIGHTS INT'L, <https://www.earthrights.org/legal/wiwa-v-royal-dutch-shell-case-history> (last visited Oct. 4, 2016).

¹⁰⁹ *Shell Settles Nigeria Deaths Case*, BBC NEWS (June 9, 2009, 9:43 AM), <http://news.bbc.co.uk/2/hi/africa/8090493.stm>.

¹¹⁰ *Nigerian Judge Rules Gas Flaring Violates Constitutional Rights*, ENV'T NEWS SERV. (Nov. 15, 2005), <http://www.ens-newswire.com/ens/nov2005/2005-11-15-04.html>.

¹¹¹ *Tourism, Trade, and Globalisation: Impacts on Biodiversity—A One Act Play*, in EQUATIONS WORKING PAPER SERIES 2008-2009, 3 (2009), http://equitabletourism.org/files/fileDocuments468_uid11.pdf.

¹¹² Jeremy Elton Jacquot, *In Green Inc., Christine Mac Donald Explores Seamy Underside of Green NonProfit World*, TREE HUGGER (Oct. 10, 2008), <http://www.treehugger.com/about-treehugger/in-green-inc-christine-macdonald-explores-seamy-under-side-of-green-non-profit-world.html>.

The conservation refugee crisis has reached tragic proportions. Martha Honey, in her book *Ecotourism and Sustainable Development*, says conservation refugees “are roughly estimated to number between 5 million and tens of millions of human beings.”¹¹³ Yet the sad irony is, as Mark Dowie says in *Paradigm Wars*

More and more conservationists seem to be wondering how, after setting aside a “protected” land mass the size of Africa, global biodiversity continues to decline . . . [ninety] percent of biodiversity lies outside of protected areas. If we want to preserve biodiversity in the far reaches of the globe, places that are in many cases still occupied by indigenous people living in ways that are ecologically sustainable, history is showing us that the most counterproductive thing we can do is evict them.¹¹⁴

VI GREEN LIKE ME?

In the article *Racializing Environmental Justice*, Eric K. Yamamoto and Jen-L W. Lyman argue, “the established [environmental justice] framework tends to assume that all racial and indigenous groups, and therefore racial and indigenous group needs, are the same.”¹¹⁵ This assumption can have pernicious consequences. Consider, for example, African American and Native American legal frameworks. African Americans generally seek civil rights with the goal to be treated the same as all other Americans. In contrast, the goal of Native American tribes is not to be treated the same as others, but rather to be recognized as sovereign nations.

In contrast, when it comes to taxonomies, Native Americans are more likely to seek rights for all persons to be treated equitably, including humans and nonhumans. African Americans, in contrast, despite our sympathy for nonhumans, have reasons to insist on wanting humans and nonhumans to be treated differently. Although Native Americans have been racistly framed as animals, as well, Native Americans have a tradition of assigning personhood to nonhumans while African Americans do not. In the absence of such a tradition,

¹¹³ MARTHA HONEY, *ECOTOURISM AND SUSTAINABLE DEVELOPMENT* 98 (2nd ed., 2008).

¹¹⁴ Mark Dowie, *Conservation Refugees*, in *PARADIGM WARS: INDIGENOUS PEOPLES’ RESISTANCE TO GLOBALIZATION* 130 (Jerry Mander & Victoria Tauli-Corpuz eds., 2006).

¹¹⁵ Eric K. Yamamoto & Jen-L W. Lyman, *Racializing Environmental Justice*, in *ENVIRONMENTAL JUSTICE: LAW, POLICY & REGULATION* 28 (Clifford Rechtschaffen et al. eds., 2009).

blacks are particularly wary of how the assignation of biocentric identities to humans can result in dehumanization when it intersects with a tradition of denigrating African Americans by framing us as animals. For example, consider the following tale from the Reconstruction era:

There is a story told of a field hand going to a circus and saying to a very big, black ape, “Good mawnin’, sah.” The ape remained silent. “Why don’t you talk to me, mistah?” the darkey said; “you looks jes’ like my poor brer John, who is done dead.” The ape blinked sympathetically, but made no reply. Then the darkey’s face broke into a smile, and he said, “You sho’ly is wise, sah; ‘cause ef you said anything de white folks would cut off yo’ tail, put a hoe in yo’ hand, and set you to work plantin’ cotton.”¹¹⁶

In *Converging Stories: Race, Ecology, and Environmental Justice in American Literature*, Jeffrey Myers argues “that the separation among races, like the separation of the human from the nonhuman is, in ecological terms, illusory.” He also offers the following caveat: “I do not mean to suggest that the fact of race as a lived condition can or should simply be effaced.”¹¹⁷ While the idea that race is a biological reality is pseudo-science, the Reconstruction era story provides an argument against *not* separating the human from the nonhuman. While the notion humans and nonhumans are not separate from each other can be a progressive, environmentally friendly thought, it can also generate the sort of legal and/or social fictions that essentially make African Americans no more than anthropomorphized animals.

Myers goes on to say, “[r]ather than positioning humanity at the center of the natural world, with human priorities as the *only* legitimate concern, ecocentricity decenters humanity and repositions us as interconnected and on an equal plane with other beings in the natural world.”¹¹⁸ But this is a false choice; a human being can value more than just other human beings—as African American writers commonly do—without arguing humans should be “on an equal plane” with nonhumans. A core facet of the African American experience of racial abuse is the experience of being “decentered” and being “repositioned” “on an equal plane” with the natural world. I fear Myers underestimates the salience of racism. If ecocritics argue for human equality with

¹¹⁶ T.P. O’CONNOR, *MY BELOVED SOUTH* 307 (G.P. Putnam’s Sons ed., The Knickerbocker Press 1913).

¹¹⁷ JEFFREY MYERS, *CONVERGING STORIES: RACE, ECOLOGY, AND ENVIRONMENTAL JUSTICE IN AMERICAN LITERATURE* 8 (2005).

¹¹⁸ *Id.* at 9.

nonhumans, not all humans will be repositioned as equal to nonhumans. Marginalized humans, such as African Americans, will be the first to have their humanity decentered. We see this, for example, in People for Ethical Treatment of Animal's campaign "Are Animals the New Slaves?" that compared animal cruelty to, among other things, the abuse of blacks. This essentially posits that atrocities against African American populations was no greater a tragedy than owning or killing animals.¹¹⁹

Henry David Thoreau's performance in *Walden*, of what Lawrence Buell describes as "radical relinquishment [of] individual autonomy itself," is celebrated by Myers.¹²⁰ But Thoreau, as a European American, had the privilege of safely relinquishing his individual autonomy. This move is hardly attractive to African Americans, whose conditions are defined by a relative, sometimes total, lack of "individual autonomy." It is worthy for ecocritics to celebrate human connection to nature, and underscore instances of such connections in literature, but history highlights the value of insisting on human uniqueness and individual autonomy.

Black writers sinisterly view the dichotomies of human/nonhuman and culture/nature. In "Roast Possum" from *Thomas and Beulah*, Thomas reads about possums to his grandchildren from the 1909 *Werner Encyclopedia*, concealing from them the fact the tome, in addition to supplying scientific facts about animals, denigrates the Negro: "Werner admitted Negro children to be intelligent, though briskness / clouded over at puberty, bringing / indirection and laziness."¹²¹ *Werner Encyclopedia's* degrading conflation of (African American) humanity with animals' contrasts with Thomas' view of what Lawrence Buell terms "biotic egalitarianism."¹²² A possum's "torpedo snout" appears as if fashioned like the weapon by human hands. His grandson Malcolm has "gold hawk eyes," an image that renders him pensive. Thomas delights Malcolm with talk of Strolling Jim, a horse "who could balance / a glass of water on his back / and trot

¹¹⁹ Tolerance.org staff, *PETA Rethinks 'Slavery' Exhibit* (Aug. 15, 2005), http://www.tolerance.org/news/article_tol.jsp?id=1266 [http://web.archive.org/web/2008043071639/http://www.tolerance.org/news/article_tol.jsp?id=1266].

¹²⁰ MYERS, *supra* note 117, at 51.

¹²¹ Rita Dove, *Roast Possum*, CALLALO (1986), http://xroads.virginia.edu/~public/callaloo/old_faces/doveroast.htm.

¹²² LAWRENCE BUELL, *THE FUTURE OF ENVIRONMENTAL CRITICISM: ENVIRONMENTAL CRISIS AND LITERARY IMAGINATION* 137 (2005).

the village square without spilling a drop. Who put / Wartrace on the map and was buried / under a stone, like a man.”¹²³ When Werner likens African Americans and animals, it is to the detriment of blacks. When Thomas compares the two, he does so in a way that honors human and nonhuman creatures.

The persona of Césaire’s *Notebook* ironically addresses the negrophobia of “authorities” like Werner. Césaire describes himself as turning his eyes away from a black man he sees on the streetcar because he seems like a “monkey.”¹²⁴ The persona has internalized white supremacist taxonomies and, thus, in an act of self-hatred, rejects a fellow black man onto whom he projects his Europe-derived bigotry. This bigotry is described in Morrison’s *Beloved* when the character Stamp Paid observes that whites believe blacks have “screaming baboons, sleeping snakes” beneath their skin.¹²⁵ One of the most traumatizing moments experienced by a character in that book is when a white character, a schoolteacher, an “intellectual” like the encyclopedist Werner, teaches a lesson that requires his nephews to list which of a slave woman’s features are animalistic, and which are human.¹²⁶

A recent paper testifies to how enduring this terrible tradition is. This paper, entitled “Not Yet Human: Implicit Knowledge, Historical Dehumanization and Contemporary Consequences,” was written by psychologists at Stanford, Pennsylvania State University, and University of California-Berkeley. The authors state that even people born after the civil rights movement still subconsciously link blacks to apes. As Stanford News Service reported, “in hundreds of news stories from 1979 to 1999 in the Philadelphia Inquirer, African Americans convicted of capital crimes were about four times more likely than whites convicted of capital crimes to be described with ape-relevant language, such as ‘barbaric,’ ‘beast,’ ‘brute,’ ‘savage’ and ‘wild.’”¹²⁷ The psychologists found that, “[t]hose who are implicitly portrayed as more ape-like in these articles are more likely to be executed by the state than those who are not.”¹²⁸ Furthermore, News Service states, “the

¹²³ *Id.*

¹²⁴ CÉSAIRE, *supra* note 70, at 52.

¹²⁵ TONI MORRISON, *BELOVED: A NOVEL* 232 (1st ed. 1987).

¹²⁶ *Id.* at 226.

¹²⁷ *Discrimination Against Blacks Linked to Dehumanization, Study Finds*, STANFORD NEWS SERVICE (Feb. 7, 2008), <http://news.stanford.edu/pr/2008/pr-eber-021308.html>.

¹²⁸ *Id.*

findings show that society is more likely to condone violence against black criminal suspects as a result of its broader inability to accept African Americans as fully human, according to the researchers.”¹²⁹ Thus, too close of an identification between African Americans and animals, rather than furthering the environmental justice legal movement, can have devastating sociological consequences, and even retard efforts to improve the criminal justice system.

CONCLUSION

African American literature, like its sister indigenous orature, invites scholars and practitioners to deepen the environmental justice movement in a variety of ways. One is being wasteful if, outside of tribal contexts, stories are not seen as resources for environmental advocates. One is being lax if one does not insist that policymakers step up and prioritize creating a legal infrastructure that facilitates divestment from entities responsible for sacrifice zones. Furthermore, thinkers need to move away from simplistic conceptions of being fair, and to recognize fairness is not just calling for equitable distribution of benefits, but ensuring that everyone has an equal right to define what a “benefit” is; that justice is not for all if, despite being anti-racist and anti-elitist, it is still anthropocentric, nationalistic, or anti-indigenous; and *ex post* attempts at justice too often fail to recognize some harms can never be compensated for.

Ultimately, the environmental justice movement must recognize its *own* biodiversity alongside celebrating the biodiversity of the planet it seeks to protect. It must become a space of legal pluralism, inhabited by multiple communities that, despite sharing the goal of justice, are understood to have unique histories and cosmologies. This means employing a biocentric critical race theoretical perspective that, at every juncture, rejects anthropocentrism, anti-indigenism, racism, classism, national chauvinism, and uncritical homogeny. Envision a world in which the rights of whales and the rights of Makah whalers are safe, the bodies of inner city grandmothers and Grandmother Corn are protected. Our movement should settle for nothing less.

129 *Id.*