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# IT TAKES GREEN TO BE GREEN: ENVIRONMENTAL ELITISM, “RITUAL DISPLAYS,” AND CONSPICUOUS NON-CONSUMPTION

AVI BRISMAN\*

## I. INTRODUCTION

In December 2007, under the banner “Top Trends in Search in 2007,” Yahoo announced that “global warming” ranked as one of the top searches for the year 2007.<sup>1</sup> For the green conscious, this might seem like good news. As Yahoo director of product marketing, Raj Gossain, states, “[These] Internet searches revealed a hunger for knowledge about global warming and ways to do something about it.”<sup>2</sup> If these searches are any indication, there does indeed appear to be a greater interest in “environmental consciousness” or “green consciousness”<sup>3</sup>—as evidenced by the growth and popularity of “eco-houses,”<sup>4</sup> “passive houses,”<sup>5</sup> “green

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1. *Global Warming, Celebrities Lead Top Yahoo*, Dec. 4, 2007, <http://www.abc.net.au/news/stories/2007/12/04/2109026.htm> (last visited Nov. 21, 2009).

2. *Id.*

3. See, e.g., Lisa W. Foderaro, *Pint-Size Eco-Police, Making Parents Proud And Sometimes Crazy*, N.Y. TIMES, Oct. 10, 2008, at A27 (“I have very, very environmentally conscious children—more so than me, I’m embarrassed to say. They’re on my case about getting a hybrid car. They want me to replace all the light bulbs in the house with energy-saving bulbs.” (quoting Jennifer Ross, a social worker in Dobbs Ferry, N.Y.)); Elisabeth Rosenthal, *Trying to Build a Greener Britain, Home by Home*, N.Y. TIMES, July 20, 2008, available at <http://www.nytimes.com/> (discussing the popularity of smart meters in homes in Britain, but noting that some have been concerned about energy use for reasons of thrift, rather than “green consciousness”); Sarah Tuff, *Second Homes That Put Ecology First*, N.Y. TIMES, June 2, 2006, at D1, D5 (“There’s just all this awareness right now—global warming, the conflict in the Middle East, rising oil and gas prices. People are now realizing, ‘Maybe I need to be a little bit more environmentally conscious.’ It’s happening with hybrid vehicles, and there’s a spinoff effect in homes.” (quoting Jay Hall, acting program manager for the Green Building Council’s Leadership in Energy and Environmental Design (LEED) program)); see generally Janelle Brown, *Better Homes & Granola*, N.Y. TIMES, Nov. 20, 2005, at ST2 (“earth-friendly products, including housewares, linens, furniture, baby gear and paint, now appear to be following the same path as organic food, from crunchy fringe to high style”); Alex Williams, *Greening Up With the Joneses*, N.Y. TIMES, May 14, 2006, at 10 (“Conservation is becoming a subject of recrimination and debate inside many American homes, perhaps to the greatest extent since the 1970’s. Whether prompted (or shamed) by rising gas prices, a dependence on foreign oil or dire warnings about global warming, some Americans who have never allied themselves with the environment movement are taking it upon themselves to drive less, consume less and recycle more. . .”).

4. Rosenthal, *supra* note 3.

homes,”<sup>6</sup> “green rentals,”<sup>7</sup> “off-the-grid vacation homes,”<sup>8</sup> “biotecture,”<sup>9</sup> “green building”<sup>10</sup> (also known as “natural building”<sup>11</sup>), “green development,”<sup>12</sup> “green design,”<sup>13</sup> “sustainable landscapes,”<sup>14</sup> “eco-decorating,”<sup>15</sup> “eco-friendly factories,”<sup>16</sup> “restorative enterprises,”<sup>17</sup> “green-collar jobs,”<sup>18</sup>

5. Elisabeth Rosenthal, *No Furnaces but Heat Aplenty In ‘Passive Houses’* N.Y. TIMES, Dec. 27, 2008, at A1, A8.

6. Jennifer Conlin, *Taking It Easy Can Be Easy on the Planet*, N.Y. TIMES, Aug. 3, 2008, at TR8; Barnaby J. Feder, *The Showhouse That Sustainability Built*, N.Y. TIMES, Mar. 26, 2008, at H6; see generally Monique Howard, *What Green Means in Georgia’s Real Estate Market*, NEW LIFE J., Apr. 2008, at 11 (“When the term ‘green’ was first mentioned to describe a house a few years back, most people . . . thought of an outdoor dwelling where plants were grown. But today, ‘green house’ has a much broader and larger meaning. When green house construction is mentioned now, people think of energy-efficient heating and cooling options, sustainable flooring and the like.”).

7. Conlin, *supra* note 6, at TR8. Green rentals may also be referred to as “eco-friendly vacation homes.” *Id.*

8. Matthew Preusch, *Powering Up*, N.Y. TIMES, Aug. 29, 2008, at F1, F5; see also Conlin, *supra* note 6, at TR8; Lisa A. Phillips, *A Focus on Light and Thrift*, N.Y. TIMES, Nov. 20, 2008, at D1, D6.

9. Andrew Eitelbach, *Down to Earth*, CONTINENTAL, June 2008, at 92, available at <http://magazine.continental.com/200806-greener-good>.

10. Fred A. Bernstein, *From Michigan, a Clean-Running Museum*, N.Y. TIMES, Mar. 28, 2007, at H18; Robert Soens and Jody Guokas, *Renovate or Rebuild: An Eco-Conscious Homeowner’s Conundrum*, NEW LIFE J., Apr. 2008, at 8-9; Tuff, *supra* note 3, at D1, D5; Matt Tyrnauer, *Natural Phenomenon*, VANITY FAIR, May 2008, at 242-45, 282-83; Bryan Walsh, *Why Green Is the New Red, White And Blue*, TIME, Apr. 28, 2008, at 45, 53; see generally Ken Belson, *Green Roofs Offer More Than Color for the Skyline*, N.Y. TIMES, Aug. 28, 2008, at B6; C.J. Hughes, *A Cleaner Way to Keep The City Running*, N.Y. TIMES, Jan. 4, 2009, at RE8.

11. Clarke Snell, *Firewood: Don’t Burn It, Build With It*, NEW LIFE J., Apr. 2008, at 38-39.

12. Maggie Cramer, *Is It Really “Green” or Just Green Washing?*, NEW LIFE J., Apr. 2008, at 14-16.

13. See Richard Register & Kirstin Miller, *Redesign Cities*, THE EPOCH TIMES, Oct. 30, 2008, at B3; see generally GOOD DEEDS, GOOD DESIGN: COMMUNITY SERVICE THROUGH ARCHITECTURE (Bryan Bell ed., 2004); Sally McGrane, *Housing Stack*, KEY: THE N.Y. TIMES REAL ESTATE MAG., Fall 2008, at 62.

14. Hilda J. Brucker, *Green Gardens*, CONTINENTAL, May 2008, at 90-91, available at <http://magazine.continental.com/200805-greener-good>; Anne Raver, *How Green Is Your Garden? A New Rating System May Tell You*, N.Y. TIMES, Jan. 8, 2009, at D2-D3.

15. Penelope Green, *The Year of Eco Decorating*, N.Y. TIMES, Nov. 29, 2007, available at <http://www.nytimes.com/>.

16. Andrew Martin, *In Eco-Friendly Factory, Low-Guilt Potato Chips*, N.Y. TIMES, Nov. 15, 2007, at A1, A22; see also Michael Grunwald, *The Clean Energy Scam*, TIME, Apr. 7, 2008, at 40, 45.

17. Cornelia Dean, *Executive on a Mission: Saving the Planet*, N.Y. TIMES, May 22, 2007, at D1, D4 (describing the goal of the carpet tile company, Interface, to become “a sustainable operation that takes nothing out of the earth that cannot be recycled or quickly regenerated, and that does no harm to the biosphere”).

18. Vanessa Gera, *Green Activists Find new Ally in US Unions*, Dec. 14, 2008, <http://www.mnn.com/business/green-jobs/stories/green-activists-find-new-ally-in-us-unions> (last visited Nov. 21, 2009); Jon Gertner, *Capitalism to the Rescue*, N.Y. TIMES MAG., Oct. 5, 2008, at 54, 54-61, 82-83; Steven Greenhouse, *Jobs Of a Different Collar*, N.Y. TIMES, Mar. 26, 2008, at H1, H4. See generally VAN JONES, *THE GREEN COLLAR ECONOMY: HOW ONE SOLUTION CAN FIX OUR TWO BIGGEST PROBLEMS* (New York: HarperCollins 2008); Keith Schneider, *Majoring in Renewable Energy*, N.Y. TIMES, Mar. 26, 2008, at H4.

“green shipping,”<sup>19</sup> “green chemistry” (which tries to eliminate waste, rely on renewable or environmentally benign materials, and avoid using toxic reagents and solvents when designing chemical products<sup>20</sup>), “green-oriented mutual funds,”<sup>21</sup> “green-tech investments,”<sup>22</sup> “green-tech portfolios,”<sup>23</sup> “green-tech ventures,”<sup>24</sup> “carbon-neutral investment banks,”<sup>25</sup> and “carbon-neutral real-estate brokerages.”<sup>26</sup>

Indeed, the word “green” is often used interchangeably with “environmental,” “sustainable,” “carbon-neutral,” or with words beginning with the prefix “eco.” “Green” is now, as one commentator observes, “on signs and labels everywhere you look and being used to describe a bevy of features and qualities.”<sup>27</sup> Thus, in the last few years, we have witnessed “green businesses” (including “green-tech businesses” and “green-tech companies”<sup>28</sup>), “carbon-neutral taxi fleets,”<sup>29</sup> “carbon-neutral dental practices,”<sup>30</sup> “green restaurants,”<sup>31</sup> “green hotels” (which are also known as

19. James Kanter, *Making Ships Green, In Port and at Sea*, N.Y. TIMES, Apr. 26, 2008, at B1, B4.

20. Susan Moran, *A Turn to Alternative Chemicals*, N.Y. TIMES, Mar. 26, 2008, at H2.

21. Claudia H. Deutsch, *Saving the Planet? Not With My Money*, N.Y. TIMES, Mar. 26, 2008, at H2.

22. Gertner, *supra* note 18, at 54-61, 82-83.

23. *Id.*

24. *Id.*

25. Michael Specter, *Big Foot: In Measuring Carbon Emissions, It's Easy to Confuse Morality and Science*, THE NEW YORKER, Feb. 25, 2008, at 44.

26. *Id.*; see also Maggie Cramer, *Greening a MLS: Asheville's Eco Professionals are up for the Task*, NEW LIFE J., Apr. 2008, at 10-12; Howard, *supra* note 6, at 11.

27. Cramer, *supra* note 12, at 14; see also TOBIN SMITH, BILLION DOLLAR GREEN: PROFIT FROM THE ECO REVOLUTION 1 (2009). According to Cramer, the proliferation of the word “green” is cause for some concern. Some of the features and qualities to which “green” is attached are “pretty far from the word’s genuine intent. In other words, greenwashing—or the exaggeration or fabrication of the eco components of a home, development or even product—is happening.” Cramer, *supra* note 12, at 12. Some individuals are even more acerbic about the growing use of the word “green.” “Unless you live under a rock on another planet whose sentient inhabitants have developed advanced anti-BS technology and the ability to block HGTV, you’re just about sick of the word ‘green’ right now.” *Id.* (quoting Clarke Snell, a NEW LIFE J. columnist and Green Home Experts Board member).

28. Gertner, *supra* note 18, at 54-61, 82-83; see also Ken Belson, *Kept Out of Landfills and Reborn as a Bag*, N.Y. TIMES, Sept. 24, 2008, at H11.

29. Specter, *supra* note 25, at 44.

30. *Id.*

31. Florence Fabricant, *Going Out to Eat, but Staying Green*, N.Y. TIMES, Feb. 12, 2008, at D5 (explaining that “green restaurants” serve organic food, are built in compliance with standards set by the U.S. Green Building Council, attempt to recycle as much as possible, use chlorine-free paper products, nontoxic cleaning products, and energy efficient light bulbs, and engage in composting, water conservation, and responsible grease disposal); see generally Jennifer 8. Lee, *City Room: Restaurants Take Pledge On Water*, N.Y. TIMES, Aug. 1, 2008, at B2 (describing a new initiative in which New York restaurants that stop selling bottled water will be referred to as “water conscious”).

“environmentally sustainable hotels”<sup>32</sup>), “green theaters,”<sup>33</sup> “green museums,”<sup>34</sup> “eco lyrics” in rock music,<sup>35</sup> “eco-tainment,”<sup>36</sup> “green gaming,”<sup>37</sup> “green parties,”<sup>38</sup> “green clubbing,”<sup>39</sup> “green holidays” (where Christmas trees are illuminated by energy-efficient bulbs and carbon offsets are exchanged as gifts<sup>40</sup>) “green parenting,”<sup>41</sup> “eco-kids” (who are “steeped in environmentalism at school, in houses of worship, through scouting and

32. Gregory Dicum, *Pleasure Without Guilt: Green Hotels With Comfort*, N.Y. TIMES, Dec. 28, 2007, at D1 (explicating that such hotels are evaluated based on materials, energy use, and recycling in the construction and operation of a building); Joe Sharkey, *Lodgers Look to Walk the Eco-Talk*, N.Y. TIMES, Apr. 20, 2008, at BU2; see also Jennifer Conlin, *An Eco-Tourism Moves Out of the Wilderness*, N.Y. TIMES, Mar. 16, 2008, at TR7.

33. Collin Kelley, *Jewel in the Crown*, ATLANTA INTOWN NEWSPAPER, Sept. 2008, at 29; see generally Jenn Ballentine, *How the Arts are Going Green*, ATLANTA INTOWN NEWSPAPER, Sept. 2008, at 30 (discussing how art organizations in Atlanta are “going green”).

34. Tyrnauer, *supra* note 10, at 242-45, 282-83.

35. Deborah Solomon, *Questions for Sheryl Crow*, N.Y. TIMES MAG., Jan. 27, 2008, at 13.

36. Brian Stelter, *A Network to Make an Environmental Point*, N.Y. TIMES, June 2, 2008, at C8.

37. Kevin Brigden et al., *Playing Dirty: Analysis of hazardous chemicals and materials in games console components*, GREENPEACE, May 20, 2008, available at <http://www.greenpeace.org/raw/content/usa/press-center/reports/playing-dirty.pdf> (last visited Nov. 21, 2009); Ben Silverman, *Ten Ways to Turn Your Gaming Green: Gamers, Take Heed—It’s Easy Being Green*, YAHOO! GAMES, Apr. 22, 2008, available at <http://videogames.yahoo.com> (last visited Nov. 21, 2009).

38. Green, *supra* note 15; see generally Tina Kelley, *Cake and Ice Cream, but No Presents, Please*, N.Y. TIMES, July 27, 2007, at A20 (discussing “no gift parties” as part of “a growing movement to involve even the youngest children in philanthropy” and to counter the “culture of excess”).

39. Elisabeth Rosenthal, *Partying Helps Power a Dutch Nightclub That Harnesses the Energy of Youth*, N.Y. TIMES, Oct. 24, 2008, at A8.

40. See Amy Cortese, *I’m Dreaming Of an Eco-Christmas*, N.Y. TIMES, Dec. 2, 2007, at BU2; *Jolly and Green, With an Agenda*, N.Y. TIMES, Nov. 25, 2007, at ST1, ST2 (describing the waste of 2.6 billion holiday cards and the emissions of traditional Christmas lights); see also VICTORIA PERLA, *WHEN SANTA TURNED GREEN* (Plan G, 2007); Specter, *supra* note 25, at 44 (noting a report from the Stockholm Environment Institute, which found that “the carbon footprint of Christmas—including food, travel, lighting, and gifts—was six hundred and fifty kilograms per person”—as much as the weight of “one thousand Christmas puddings” for every resident of England”); see generally Barnaby J. Feder, *Aiding the Environment, A Nanostep at a Time*, N.Y. TIMES, Nov. 7, 2007, at H6 (noting how Christmas trees in Japan are illuminated with white L.E.D.’s, rather than incandescent lights); cf. Anne Raver, *How Green Can A Christmas Tree Be?*, N.Y. TIMES, Dec. 4, 2008, at D1, D8 (stating that “many Christmas trees . . . are sprayed with pesticides, especially those grown on the large tree plantations in Oregon, North Carolina, Michigan and Canada”, but also noting that pesticide use has been cut in half over the last ten years and pointing readers to information about Christmas trees certified as organic or chemical-free). Carbon offset programs are a common holiday gift. See e.g., Anthony DePalma, *Gas Guzzlers Find the Price of Forgiveness*, N.Y. TIMES, Apr. 22, 2006, at A1, A13; Paul Tolme, *Consumers And Carbon*, NEWSWEEK, July 28, 2008, at 55; see also <http://www.terrappass.com>.

41. See, e.g., Lela Davidson, *Green Parenting 101*, available at <http://hubpages.com/hub/Green-Parenting-101> (last visited Nov. 21, 2009); Christine Gardner, *Baby steps to green parenting*, Grist, Apr. 4, 2007, available at <http://gristmill.grist.org/story/2007/4/3/113543/7240> (last visited Nov. 21, 2009). Numerous websites now promote “green parenting,” including [ecochildsplay.com](http://ecochildsplay.com), [greenparentingshow.com](http://greenparentingshow.com), [greensense.com](http://greensense.com), [portlandgreenparenting.com](http://portlandgreenparenting.com), and [treehugger.com](http://treehugger.com).

even via popular culture [and] who try to hold their parents accountable at home”<sup>42</sup>), “green charter schools,”<sup>43</sup> “eco-colleges,”<sup>44</sup> and “green ratings” in college rankings.<sup>45</sup> Voters have professed a greater willingness to take a candidate’s green credentials into account,<sup>46</sup> and in response, presidential candidates in the 2008 election touted their environmental records and agendas.<sup>47</sup> Even sex and death have turned green: “cruelty-free sex” (sex with non-meat eaters, for the growing population of “vegansexuals”<sup>48</sup> and “ecosexuals”),<sup>49</sup> as well as “green burials”<sup>50</sup> and “eco-friendly funerals.”<sup>51</sup>

42. Foderaro, *supra* note 3, at A27.

43. Abby Schultz, *The Urban Environment*, N.Y. TIMES (Education Life), July 27, 2008, at 30-31.

44. Anthony DePalma, *The Sustainable Hampton*, N.Y. TIMES (Education Life), July 27, 2008, at 28-29; Kate Zernike, *Green, Greener, Greenest*, N.Y. TIMES (Education Life), July 27, 2008, at 26-27, 32.

45. Zernike, *supra* note 44, at 26-27, 32.

46. See Jerry Adler, *Just the Tree of Us*, NEWSWEEK, Apr. 14, 2008, at 43-44, 48 (finding that 30% of voters have indicated that they would take a candidate’s green credentials into account—up from 11% in 2005).

47. See, e.g., John M. Broder, *The Issues: Energy* (Election Special Issue), N.Y. TIMES, Oct. 26, 2008, at WK6; Andrew C. Revkin, *On Global Warming, McCain and Obama Agree: Urgent Action Is Needed*, N.Y. TIMES, Oct. 19, 2008, at 22.

During the 2008 presidential campaign, commentators were unimpressed with the efforts of candidates to secure the green vote. See, e.g., Thomas L. Friedman, *The Power of Green*, N.Y. TIMES MAG., Apr. 15, 2007, at 40, 72 (“Unfortunately, today’s presidential hopefuls are largely full of hot air on the climate-energy issue.”); Paul Krugman, *Can This Planet Be Saved*, N.Y. TIMES, Aug. 1, 2008, at A19 (criticizing John McCain’s position on offshore drilling, questioning his commitment to a cap-and-trade system, and expressing disappointment with Barack Obama’s response to McCain’s “energy posturing”); Marianne Lavelle, *Green, Not Sacrifice, Is the Political Word*, U.S. NEWS & WORLD REPORT, Apr. 17, 2008, available at <http://www.usnews.com/> (last visited Nov. 21, 2009) (“The last politician who truly called on Americans to discomfort themselves to save energy was President Jimmy Carter.”); Eric Pooley, *The First Big Test*, TIME, Apr. 28, 2008, at 60, 61 (stating that “[i]n three dozen presidential debates, climate has rarely come up,” and arguing that “the canary in this coal mine is the policy known as cap and trade”).

48. Jeff Stryker, *Vegansexuality*, N.Y. TIMES MAG., Dec. 9, 2007, at 103-05.

49. Miro Cernetig, *Ecosexual: The New Political Cool*, VANCOUVER SUN/THE LEADER-POST (Regina), Mar 4, 2008, at B6, available at [http://www.angusreidstrategies.com/uploads/pages/pdfs/Regina\\_Eco.pdf](http://www.angusreidstrategies.com/uploads/pages/pdfs/Regina_Eco.pdf) (last visited Nov. 21, 2009); *Human Ecosexuality and Gender Issues*, SEATTLEST, Nov. 29, 2006, available at [http://seattlest.com/2006/11/29/human\\_ecosexuality\\_and\\_gender\\_issues.php](http://seattlest.com/2006/11/29/human_ecosexuality_and_gender_issues.php) (last visited Nov. 21, 2009) (“someone who selects dating partners based on their green credentials”).

“Ecosexuals” may not necessarily confine themselves to “cruelty-free sex.” They might, for example, have sex only with other vegetarians or might become intimate only with those who eat organic or local foods or those who restrict their meat consumption to free-range animals. In fact, “ecosexuals” may not even require their partners to share similar food choices—they may simply insist that their partners possess similar attitudes towards composting, recycling, transportation, and climate change. In other words, “ecosexuals” may consider a broader range of (environmental) behaviors in determining the suitability of a sexual partner; “vegansexuals,” on the other hand, base their selection process on attitudes towards animals and make veganism a requirement.

50. April Dembosky, *Biodegradable Coffins*, N.Y. TIMES MAG., Dec. 9, 2007, at 57.

51. This type of funeral includes recycled paper or cardboard coffins (Ecopods) that biodegrade in three months, clothes sewn from natural fibers, burial plots in natural settings, and

Reflecting this growing interest in environmental consciousness—as well as contributing to it—major media and entertainment sources devote significant attention to green behaviors, consumerism, and politics. For example, television viewers can now tune to Discovery Network’s Planet Green, the first channel dedicated solely to the subject of ecologically friendly living,<sup>52</sup> with such programs as *Alter Eco*, where Hollywood stars are encouraged to show off their “eco-cool;” *Battleground Earth*, hosted by rocker Tommy Lee and rapper Ludacris, set on the road in a ten-city tour across the United States, in which the two entertainers and their teams battle against each other to see who can keep their act “more green;” *Emeril Green*, hosted by Emeril Lagasse, where the chef explains the benefits of organic, locally grown, and seasonal produce, by demonstrating the ease of using these food products; *Greensburg*, a program about rebuilding the town of Greensburg, Kansas, in a sustainable way after being hit by a tornado; *Hollywood Green*, a program “serv[ing] as a kind of ‘Lifestyles of the Rich and Responsible,’ touring green Hollywood Hills mansions and beauty services;”<sup>53</sup> and *Greenovate*, *Renovation Nation*, and *Wa\$ted!*—programs all dedicated to demonstrating methods of reducing one’s ecological footprint.<sup>54</sup> Younger audiences can turn to Nickelodeon for a program called *The Big Green Help* which shows kids ways to take care of the Earth.<sup>55</sup> Those anxious to shift to environmentally-friendly lifestyles can consult blogs, such as Green Inc.<sup>56</sup> and enVisionGreen,<sup>57</sup> as well as “The Green Lantern” page on *Slate*’s website,<sup>58</sup> which recently ran a story about ways to make blogs and websites more energy-efficient.<sup>59</sup> Those who prefer hard copy reading material can refer to a seemingly endless

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small cars instead of limousines in funeral processions. See Regan McTarsney, *Green funerals make for eco-exits*, YAHOO! NEWS (Apr. 20, 2008), available at <http://news.yahoo.com/> (last visited Nov. 21, 2009); see also Green Endings, <http://www.greenendings.co.uk/>; The Natural Burial Company, <http://www.naturalburialcompany.com/>; The Natural Death Centre, <http://www.naturaldeath.org.uk/>.

52. See Gary Levin, *Planet Green TV Network Pushes Environmentalism*, USA TODAY, Mar. 31, 2008, available at [http://www.usatoday.com/life/television/news/2008-03-30-planet-green\\_N.htm](http://www.usatoday.com/life/television/news/2008-03-30-planet-green_N.htm) (last visited Nov. 21, 2009).

53. Alessandra Stanley, *Eco-Emeril on Planet Green, With Mayo and Inconsistency*, N.Y. TIMES, Aug. 4, 2008, at E1, E6.

54. *Id.*

55. See Foderaro, *supra* note 3, at A27.

56. Green Inc., a blog from *The New York Times* devoted to energy and the environment, can be found at <http://greeninc.blogs.nytimes.com>.

57. enVisionGreen, a blog about sustainability and environmental justice, can be found at <http://www.envisiongreen.blogspot.com/>.

58. SLATE is a web-based daily magazine. “The Green Lantern” section of the web magazine appears at <http://www.slate.com/id/2174662/landing/1>.

59. Jacob Leibenluft, *Green My Blog*, SLATE (THE GREEN LANTERN), Jan. 6, 2009, <http://www.slate.com/id/2207902/> (last visited Nov. 21, 2009).

score of recently-published how-to manuals, including *The Complete Idiot's Guide to Green Living*,<sup>60</sup> *The Eco Chick Guide to Life: How to Live Fabulously Green*,<sup>61</sup> and *Green Living for Dummies*.<sup>62</sup>

In addition, many mainstream magazines have recently devoted issues to environmental news stories or published guides on how to engage in greener living, including *Consumer Reports'* October 2008 issue, which contained articles about Energy Star refrigerators, compact fluorescent light bulbs, tankless water heaters, hybrid cars, and tips choosing energy efficient products; *Vanity Fair's* Third Annual "Green Issue" of May 2008, which dedicated five of its eight features to environmental matters; and *The New York Times Magazine*, which devoted its entire April 20, 2008, issue—"The Green Issue"—to articles about how to act, eat, invent, learn, live, move, and build in ways to reduce one's ecological footprint, as well as its entire October 12, 2008, issue—"The Food Issue: Food Fights!"—which included articles about the ecological and social implications of the ways in which we grow and eat our food. And virtually every day, newspaper articles report on ways that individuals can become more green, with alterations in their lifestyles as varied as: reducing the use of tumble dryers and using clotheslines to dry clothing; taking shorter showers; using more green or eco-friendly products—from cleaning products to snowboards; installing solar power systems and BioBased Insulation; walking or biking to work or school; becoming "cleaner drivers" to reduce fuel consumption by running as many errands together as possible, removing roof racks, keeping engines maintained, checking tire pressure regularly, changing oil regularly, keeping windows closed to reduce drag, using cruise control on long highway trips, driving less aggressively, and obeying the speed limit; switching from desktop to laptop computers; turning off computers at night; and reducing the risk of home energy-consumption and cost by not buying plasma-screen televisions, LCD televisions, set-top boxes, and digital photo frames.<sup>63</sup>

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60. TRISH RILEY, *THE COMPLETE IDIOT'S GUIDE TO GREEN LIVING* (Penguin Books 2007).

61. STARRE VARTAN, *THE ECO CHICK GUIDE TO LIFE: HOW TO BE FABULOUSLY GREEN* (St. Martin's Griffin 2008).

62. YVONNE JEFFERY et al., *GREEN LIVING FOR DUMMIES* (Wiley 2007).

63. See, e.g., Felicity Barringer, *Clorox Courts Sierra Club, and a Product Is Endorsed*, N.Y. TIMES, Mar. 26, 2008, at H2; Robyn Cammer, *The Secret to No-Pain and Eco-Friendly Vegetable Gardening*, NEW LIFE J., Apr. 2008, at 24; Steve DeWeese, *Q&A: BioBased Insulation*, NEW LIFE J., Apr. 2008, at 50-51; Michael Grunwald, *The Clean Energy Scam*, TIME, Apr. 7, 2008, at 40-45; Brendan I. Koerner, *Electric Hand Dryers vs. Paper Towels*, SLATE, June 17, 2008, <http://www.slate.com/id/2193740/> (last visited Nov. 21, 2009); David LaGessee, *The PC's Dirty Little Secret: It Wastes Power Shamelessly*, U.S. NEWS & WORLD REPORT, Apr. 17, 2008, available at <http://www.usnews.com/> (last visited Nov. 21, 2009); David LaGessee, *Small Moves You Can Take at Home to Conserve*, U.S. NEWS & WORLD REPORT, Apr. 17, 2008, available at <http://www.usnews.com/articles>; Marianne Lavelle, *Putting Your Home on an Energy Diet*, U.S.



The reasons for people's shifting environmental attitudes and behaviors vary.<sup>64</sup> For some individuals, the grounds are patriotic—or, at least, should be. According to Bryan Walsh, in his article, *Why Green Is the New Red, White And Blue*, “we’re taking a pass on what might be the most patriotic struggle of all [global warming]. It’s hard to imagine a bigger fight than one for the survival of the country’s coasts and farms, the health of its people and the stability of its economy—and for those of the world at large as well.”<sup>65</sup> Other individuals are prompted not by patriotism, but by aesthetics,<sup>66</sup> guilt,<sup>67</sup> or moral considerations.<sup>68</sup> And for still others, the

NEWS & WORLD REPORT, Apr. 24, 2008, available at <http://www.usnews.com/> (Nov. 21, 2009); Peter Maloney, *A Family Utility, Up on the Roof*, N.Y. TIMES, Mar. 26, 2008, at H6; Lia Miller, *To Improve Gas Mileage, Install a Cleaner Driver*, N.Y. TIMES, Oct. 27, 2004, at G16; Colin Moynihan, *Bike Lane Touches Off Row in Williamsburg*, N.Y. TIMES, Jan. 4, 2009, at 24; Fred Pearce, *Why Bother Going Green?*, 196 NEW SCIENTIST 34, at 34-41 (Nov. 17, 2007); Sara Rimer, *How Green Is the College? Time the Showers*, N.Y. TIMES, May 26, 2008, at A1, A11; Elisabeth Rosenthal, *A Line in the Yard: The Battle Over the Right to Dry Outside*, N.Y. TIMES, Apr. 17, 2008, at A6, A14; Amy Spitalnick, *Eco-beauty*, VEGETARIAN TIMES, Sept. 2008, at 24; Alina Tugend, *If Your Appliances Are Avocado, They Probably Aren’t Green*, N.Y. TIMES, May 10, 2008, at B5; Anne Underwood, *Free to Be Green And Clean*, NEWSWEEK, May 12, 2008, at 61.

64. According to one commentator, “no matter how sound the description, causal analysis, and potential strategies for addressing a problem, if people really do not give a damn, it is, as they say, an academic exercise.” MARK ROBERT RANK, ONE NATION, UNDERPRIVILEGED: WHY AMERICAN POVERTY AFFECTS US ALL 86 (Oxford University Press 2005); cf. Friedman, *supra* note 47, at 40, 45 (“People change when they have to—not when we tell them to. . .”).

65. See Walsh, *supra* note 10, at 45-46. The report provides in pertinent part:

Ultimately, global warming is not a battle that will be fought fiscal year by fiscal year; it’s a fight that will occupy us for generations. Our policies have to operate on the same time frame, even if our politics run on election cycles. We’ve learned from think tanks and war colleges that the outcome of any crisis is usually determined by one dominant global player that has the innovators who can churn out the technology, the financiers who can back it and the diplomatic clout to pull the rest of the planet along. That player, of course, exists, and it is, of course, us. The U.S. has enjoyed an awfully good run since the middle of the 20th century, a sudden ascendancy that no nation before or since has matched. We could give it up in the early years of the 21st, or we could recognize—as we have before—when a leader is needed and step into that breach ourselves. Going green: What could be redder, whiter and bluer than that?

*Id.* at 57. See also Friedman, *supra* note 47, at 40-41 (“I want to rename ‘green.’ I want to rename it geostrategic, geoeconomic, capitalistic and patriotic. . . . ‘Green is the new red, white and blue’); cf. Monica Hesse, *Greed In the Name Of Green*, WASH. POST, Mar. 5, 2008, at C01 (“Green is the new black, carbon is the new kryptonite, blah blah blah.”).

66. See generally Avi Brisman, *The Aesthetics of Wind Energy Systems*, 13 N.Y.U. ENVTL. L.J. 1-133 (2005) [hereinafter *Aesthetics*]; see also Robin Finn, *From Voice of the Bottle to Keeper of the Green*, N.Y. TIMES, May 4, 2007, at B2 (describing how Judith Enck, Governor Eliot Spitzer’s deputy secretary of the environment, advised then-Governor Spitzer to fight a 190-mile high-voltage transmission line through central New York that would have snaked across seven counties, 154 streams or rivers and 155 mapped wetlands on the grounds that “[i]t would have an enormous aesthetic impact”).

67. See, e.g., DePalma, *supra* note 40, at A1, A13; cf. Hesse, *supra* note 65, at C01 (“But, but, but—buying green feels so *guilt less*, akin to the mentality that results in eating 14 of Whole Foods’ two-bite cupcakes. Their first ingredient is cane sugar, but in a land of high-fructose panic, that’s practically a health food, right? Have another.”).

motivation is spiritual or religious<sup>69</sup>: “Green evangelicals”<sup>70</sup> see a biblical mandate for government action to curb global warming, while the Bishops of England have launched a “carbon fast,” suggesting that parishioners give up carbon for Lent.<sup>71</sup> Some have even referred to their newfound eco-consciousness as “conversion experiences.”<sup>72</sup> As a result, commentators have mocked the “Congregation of the Church of the Holy Organic,”<sup>73</sup> referring to climate change science and policy as “carbon fundamentalism,”<sup>74</sup> and labeling environmentalism as America’s “one truly national religion,”<sup>75</sup> or as “Calvinism minus God.”<sup>76</sup>

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68. See Vaclav Havel, *Our Moral Footprint*, N.Y. TIMES, Sept. 27, 2007, at A31; see also AN INCONVENIENT TRUTH (Lawrence Bender Productions 2006); see also Steven Pinker, *The Moral Instinct*, N.Y. TIMES MAG., Jan. 13, 2008, § 6:32, 58 (“The threat of human-induced climate change has become the occasion for a moralistic revival meeting. In many discussions, the cause of climate change is overindulgence (too many S.U.V.’s) and defilement (sully the atmosphere), and the solution is temperance (conservation) and expiation (buying carbon offset coupons).”). For an argument in a different context that pervasive injustices in society require *moral commitments* to change, rather than mere bureaucratic reforms, see Douglas S. Massey and Nancy A. Denton, *American Apartheid: Segregation and the Masking of the Underclass, in SOCIAL STRATIFICATION: CLASS, RACE, & GENDER*, 660, 668 (David B. Grusky, ed., Westview Press, 2001) (offering their suggestions for “dismantling the ghetto and ending the long reign of racial segregation”).

69. See, e.g., Neela Banerjee, *Taking on a Coal Mining Practice as a Matter of Faith*, N.Y. TIMES, Oct. 28, 2006, available at <http://www.nytimes.com>; Ian Fisher, *Pope Makes Christmas Appeal to Protect the Environment*, N.Y. TIMES, Dec. 25, 2007, at A3; Frances Fitzgerald, *The New Evangelicals*, THE NEW YORKER, June 30, 2008, at 28-34; Laurie Goodstein, *86 Evangelical Leaders Join To Fight Global Warming*, N.Y. TIMES, Feb. 8, 2006, at A10; Michael Janofsky, *When Cleaner Air Is a Biblical Obligation*, N.Y. TIMES, Nov. 7, 2005, at A17; Joan Nathan, *Of Church And Steak: Farming For the Soul*, N.Y. TIMES, Aug. 22, 2007, at D1, D2; Francine Parnes, *Maine Churches Add Environmentalism to Ministries*, N.Y. TIMES, July 17, 2004, at A12; Edward Rothstein, *Connections: The Word of God, as Shaped by Nature*, N.Y. TIMES, Feb. 6, 2006, at B3.

While spirituality and religion appear to be playing a larger role in individuals’ eco-consciousness, the link between spirituality, religion, and environmental sensitivity and benevolence has deep roots. See generally, e.g., SUSAN POWER BRATTON, *CHRISTIANITY, WILDERNESS, AND WILDLIFE: THE ORIGINAL DESERT SOLITAIRE* (1993); DON COLBERT, *WHAT WOULD JESUS EAT?: THE ULTIMATE PROGRAM FOR EATING WELL, FEELING GREAT, AND LIVING LONGER* (Thomas Nelson, Inc. 2002); DANIEL HILLEL, *THE NATURAL HISTORY OF THE BIBLE: AN ENVIRONMENTAL EXPLORATION OF THE HEBREW SCRIPTURES* (Columbia University Press 2006); John Copeland Nagle, *The Spiritual Values of Wilderness*, 35 ENVTL. L. 955, 955-1003 (2005); FRED VAN DYKE, ET AL., *REDEEMING CREATION: THE BIBLICAL BASIS FOR ENVIRONMENTAL STEWARDSHIP* (1996).

70. David D. Kirkpatrick, *The Evangelical Crackup*, N.Y. TIMES MAG., Oct. 28, 2007, § 6:38, 60.

71. Specter, *supra* note 25, at 44; see Michael E. McCullough & Brian L. B. Willoughby, *Religion, Self-Regulation, and Self-Control: Associations, Explanations, and Implications*, 135(1) PSYCHOLOGICAL BULLETIN 69, 69-93 (Jan. 2009) (discussing a recent research concluding that religious belief and piety promote self-control); see also John Tierney, *For Good Self-Control, Try Getting Religious About It*, N.Y. TIMES, Dec. 29, 2008, at D2.

72. See Dean, *supra* note 17, at D1, D4.

73. See Hesse, *supra* note 65, at C01.

74. Brad Allenby, *The Dangerous Rise of Carbon Fundamentalism* (Jan. 27, 2008), available at <http://www.greenbiz.com/blog/2008/01/26/dangerous-rise-carbon-fundamentalism> (last visited

Has society suddenly become more moral, spiritual, or religious? To what extent are these changes in attitude and behavior really a reflection of greater environmental concern or benevolence? Some may not know why they have begun to change their patterns and practices. As psychologist Jonathan Haidt, an associate professor at the University of Virginia, explains, “people have a mindless, automatic reciprocity reflex. Like other animals, we will perform certain behaviors when the world presents us with certain patterns of input.”<sup>77</sup> Thus, for these people, it may simply be a matter of witnessing others engaging in different activities or hearing them talk about the need to take personal steps to positively affect the environment.<sup>78</sup> Some individuals, as well as some businesses, readily admit that the reasons are practical, such as to “save money”<sup>79</sup> or to increase profits<sup>80</sup>—so that green is gold<sup>81</sup> or “green is green.”<sup>82</sup> For other busi-

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Nov. 21, 2009); *see also* John Tierney, *Are We Ready to Track Carbon Footprints?*, N.Y. TIMES, Mar. 25, 2008, at D1, D4 (claiming that “[s]ome [greens] are accused of being religious zealots—global warmists”).

75. John Tierney, *And on the Eighth Day, God Went Green*, N.Y. TIMES, Feb. 11, 2006, at A31.

76. *Id.* (quoting Robert Nelson, professor of environmental policy at the University of Maryland).

77. JONATHAN HAIDT, *THE HAPPINESS HYPOTHESIS: FINDING MODERN TRUTH IN ANCIENT WISDOM* 49 (Basic Books 2006) (citing R.B. CIALDINI, *INFLUENCE: SCIENCE AND PRACTICE* (4th ed., Allyn and Bacon 2001)); *see also* Juliet B. Schor, *Towards a New Politics of Consumption*, in *THE CONSUMER SOCIETY READER* 446, 456 (Juliet B. Schor & Douglas B. Holt, eds., 2000) [hereinafter Schor, *Towards a New Politics of Consumption*] (claiming that “many consumers do not understand why they prefer one brand over another, or desire particular products”).

78. This might entail viewing Al Gore’s Academy Award-winning documentary on the topic of global warming, *An Inconvenient Truth*, or attending his *Live Earth* benefit concert. To offer another example, the 2008 New York University Humanities Festival was entitled “Climate of Concern”—devoted to “themes of global warming”—and included six one-act plays to “wake people up” about climate change.” Campbell Robertson, *Nine Writers See if the Fate of the Earth Can Be Any More Dramatic*, N.Y. TIMES, Apr. 19, 2008, at A21, A27.

79. Fabricant, *supra* note 31, at D5; *see generally* Claudia H. Deutsch, *For Suppliers, the Pressure Is On*, N.Y. TIMES, Nov. 7, 2007, at H1, H11; Peter Maloney, *Pay for the Power, Not the Panels*, N.Y. TIMES, Mar. 26, 2008, at H1, H6; Matt Richtel, *Conservation at the Touch of a Button*, N.Y. TIMES, Nov. 7, 2007, at H9.

80. *See* Marianne Lavelle, *Conservation Can Mean Profits for Utilities*, U.S. NEWS & WORLD REPORT, Apr. 17, 2008, available at <http://www.usnews.com/> (last visited Nov. 21, 2009).

A utility urging customers to use less energy? Seems impossible, since more BTUs and more kilowatts always meant higher profits in the energy business. But states are changing the way that utilities get paid—decoupling profits from energy consumption—to promote efficiency and curb the need for new power plants.

*Id.*; *see generally* Friedman, *supra* note 47, at 40, 72.

Whatever you are making, if you can add a green dimension to it—making it more efficient, healthier and more sustainable for future generations—you have a product that can’t just be made cheaper in India or China. If you just create a green ghetto in your company, you miss it. You have to figure out how to integrate green into the DNA of your whole business.

nesses, the rationale for “going green” is entrepreneurial, and they openly confess to considering the environment in order to “tap into a popular trend,”<sup>83</sup> leaving individuals and advocacy groups to contend that many companies are exaggerating small improvement for marketing purposes.<sup>84</sup> “The grandstanding is ahead of action,” claims Joel Swisher, director of research at the Rocky Mountain Institute, a nonprofit energy research organization.<sup>85</sup> “Too often, it’s just greenwash,” asserts Michael J. Brune, executive director for the Rainforest Action Network.<sup>86</sup> “Sure, some companies can justifiably advertise their good actions. But too many are seeking maximum accolades for minimum change. You look beyond the green sheen, and [some companies’] actions don’t match [their] rhetoric.”<sup>87</sup>

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*Id.* (quoting Andrew Shapiro, founder of GreenOrder, an environmental business-strategy group); Miguel Helft, *Google’s Green Agenda Could Pay Off*, N.Y. TIMES, Oct. 27, 2008, at B1, B8 (“We want to make money and we want to have impact.”) (quoting Dan W. Reicher, director for climate change and energy initiatives at Google.org).

81. See generally DANIEL C. ESTY & ANDREW S. WINSTON, GREEN TO GOLD: HOW SMART COMPANIES USE ENVIRONMENTAL STRATEGY TO INNOVATE, CREATE VALUE, AND BUILD COMPETITIVE ADVANTAGE 105-45 (New Haven, CT: Yale University Press 2006).

82. See Deutsch, *Saving the Planet*, *supra* note 21, at H2 (“Green is green has become a mantra of environmentalists and, increasingly, corporate chiefs. Between money saved by energy efficiency and money made from selling environmentally sound products, they say, going green is great for shareholders as well as the planet.”). Deutsch notes, however, that many shareholders remain unconvinced that going green is really profitable, and she points to a study finding that share prices tend to drop more than they rise after companies proclaim commitments to sustainability. *Id.*

83. See Fabricant, *supra* note 31, at D5; see also Stelter, note 36, at C8 (“Green is a category companies want to be in. Whether you’re an automaker or a bank or petroleum company, somewhere in your marketing plan is something referring to the environment.”) (quoting Gary Lico, chief executive of Cable U, an online service that analyzes cable networks); but see Jad Mouawad, *At Exxon, Making the Case for Oil*, N.Y. TIMES, Nov. 15, 2008, at BU1, 10-11 (“While other oil companies try to paint themselves greener, Exxon’s executives believe their venerable model has been battle-tested.”).

84. See, e.g., Jennifer Conlin, *Trying to Lighten That Carbon Footprint*, N.Y. TIMES, May 4, 2008, at TR6 (reporting that “the environmental group Friends of the Earth was quick to criticize the Virgin event [Virgin Atlantic’s demonstration of the world’s first biofuel demonstration flight] as a public relations stunt, restating its view that carbon savings from biofuels are negligible, and the now well-publicized position that growing crops for alternative fuels cuts into the land available to grow food”); Tugend, *supra* note 63, at B5 (“I am growing a little cynical about the consumption-oriented part of the [green] movement, the urging to buy our way out of environmental problems.”).

85. See Martin, *In Eco-Friendly Factory*, *supra* note 16, at A1, A22; see generally Claudia A. Deutsch, *Companies Improve Scores In Climate-Change Ranking*, N.Y. TIMES, May 7, 2008, at C8 (reporting that according to the nonprofit group, Climate Counts, which scores consumer products companies on their green track records, “consumer companies are getting greener, but they are still a pretty carbon-intensive lot”).

86. Claudia Deutsch, *It’s Getting Crowded on the Environmental Bandwagon*, N.Y. TIMES, Dec. 22, 2005, at C5; see TOM ATHANASIOU, DIVIDED PLANET, THE ECOLOGY OF RICH AND POOR 227-97 (1996) (providing an in-depth analysis of greenwashing and critique of “corporate environmentalism”).

87. Deutsch, *It’s Getting Crowded*, *supra* note 86, at C5. According to Deutsch, “a growing list of big-name companies appear to be spending ever-bigger chunks of their advertising budgets

And for others, it is a combination of altruism and marketing—as in the case of some builders, renovators, and home owners—who regard their green buildings and renovation projects, as both “marketing vehicle[s] for manufacturers of environmentally conscious products, and a chance . . . to evangelize on green building.”<sup>88</sup> While genuine or pure environmental concern might be preferable to market-driven or profit-driven approaches, in the end, even where grandstanding exceeds action, the environment benefits from these market-driven or profit-driven approaches. In other words, as long as the environmental degradation is curbed, who cares why someone or some company engages in more responsible practices?

For the most part, the grounds for environmental do-goodism are indeed irrelevant. While an argument could be made that sincere environmental concern may lead to thoughtful and caring behavior in other aspects of one’s life, and less of a likelihood of abandoning green approaches should trends shift or become more costly, if the goal is reduction in greenhouse gas emissions, or loss or destruction of natural resources, then the justifications should be immaterial. But where green consciousness is actually an instance of trying to keep up with the Joneses<sup>89</sup>—or “greening up with the Joneses”<sup>90</sup>—or worse, of excluding those without certain means to adopt better environmental practices<sup>91</sup>—then I would contend that the reasons *are* important and that we must factor

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to promote [environmental do-goodism]. . . . [E]nvironmentalists do turn gimlet-eyed when they think a surfeit of boasts masks a dearth of action.” *Id.*

88. Lisa Selin Davis, *The Green House as Classroom*, N.Y. TIMES, Dec. 20, 2007, at F1, F7; see also Anna Kuchmet, *A Chain That Pigs Would Die For*, NEWSWEEK, May 12, 2008, at 45, 46 (“Chipotle’s ecofriendly makeover is about more than just its social conscience. It’s been great for business too.”); Specter, *supra* note 25, at 44 (“Compelled by economic necessity as much as by ecological awareness, many corporations now seem to compete as vigorously to display their environmental credentials as they do to sell their products.”).

89. Tuff, *supra* note 3, at D1, D5 (“New owners of green second homes share their ecologically friendly techniques with friends, pointing out photovoltaic systems or straw-bale walls, in a mix of environmental education and one-upmanship. ‘It’s the keeping up with the Joneses.’”) (quoting Richard Fasey, project manager for the Vermont Energy Investment Corporation).

90. Williams, *supra* note 3, at 10.

91. See generally PIERRE BOURDIEU, *DISTINCTION: A SOCIAL CRITIQUE OF THE JUDGEMENT OF TASTE* (Richard Nice trans., Harvard University Press 2007) (claiming that snobbishness is based fundamentally on rigid rules of exclusion and that class status is gained, lost, and reproduced in part through everyday acts of consumer behavior); Douglas B. Holt & Juliet B. Schor, *Introduction: Do Americans Consume Too Much*, in *THE CONSUMER SOCIETY READER* vii, xvi (Juliet B. Schor & Douglas B. Holt, eds., 2000) [hereinafter *Introduction*]; RAYMOND MURPHY, *SOCIAL CLOSURE: THE THEORY OF MONOPOLIZATION AND EXCLUSION* (Oxford University Press 1988) (same); Bethany Bryson, “*Anything But Heavy Metal*”: *Symbolic Exclusion and Musical Dislikes*, 61(5) *AMERICAN SOCIOLOGICAL REVIEW* 884, 885-86 (1996) (providing a brief overview of *social exclusion* and *symbolic exclusion*, and the ways in which sociologists of culture have described how some forms of cultural consumption serve as markers of social status).

them into our consideration and evaluation of the real benefits of such actions.

This essay looks at ways in which environmental consciousness and behavior, although seemingly noble and well-intentioned, may serve to separate and segregate, rather than include and incorporate individuals into more responsible living. In Part II, I provide a snapshot of some literature on environmental elitism. With this background, I then discuss in Part III attitudes and behaviors with respect to vehicle choice and food choice that may, in certain instances, illustrate the exclusive nature of some aspects of green consciousness. In this part, I question the intentions of those engaging in certain expensive, but environmentally friendly practices and offer some thoughts for undertaking ecologically benign activities that do not contribute to or exacerbate stratification. In Part IV, I attempt to place this essay within the broader discussion of environmental do-goodism by offering analytical tools for assessing environmental attitudes and behavior—heuristic devices that I envision will lead to more effective environmental change without the concomitant cost to racial and class relations.<sup>92</sup>

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92. A word about how I use the term “class” in this article is in order. According to sociologist Heather Beth Johnson:

Social class inequality is generally understood as hierarchical cleavages that exist between individuals or groups relative to their economic well-being, status, and life chances in society. But in most recent empirical research, theory, and policy work, class has become measured almost exclusively by education, occupation, and income. A more comprehensive understanding of social class takes multiple dynamics into consideration.

HEATHER BETH JOHNSON, *THE AMERICAN DREAM AND THE POWER OF WEALTH: CHOOSING SCHOOLS AND INHERITING INEQUALITY IN THE LAND OF OPPORTUNITY* 5 (2006). Thus she argues that:

[c]lass is more than simply a materialist phenomenon, it is a structural hierarchical phenomenon involving distinctions between stratified groups or individuals. While social class status and identification involves ownership of property and valued resources, and while it involves control over property and valued resources, it must also be understood in a fuller context to include such dimensions as economic status (income, wealth portfolios); socioeconomic status (education, occupations, prestige); power and control (social and political power); social and cultural capital (values, tastes and preferences, social networks); life chances (expectations, life trajectories of families and children); etc.

*Id.* at 5 n.7. As such, she urges a conception of class that considers not only differential positions on a scale of social advantage with respect to education, occupation, and income, but one that entails “the sharing of identities and practices, the ways in which resources are mobilized across generations, and the norms and values that shape behavior.” *Id.* at 5.

I endorse Johnson’s capacious notion of “class”—one that includes both objective indications (such as education, income, and occupation), and subjective indicators (such as how individuals and groups themselves think of and create social rankings). But for the purposes of this essay, I use the even broader phrase, “race and class,” on grounds akin to those of anthropologist Sherry B. Ortner, who regards the discourse of class as fused with ethnicity and race: “at the level of discourse class, race, and ethnicity are so deeply mutually implicated in American culture that it makes little sense to pull them apart . . . there is no class in America that is not always already

## II. ENVIRONMENTAL ELITISM

From the early days of the environmental movement and continuing on even until today, environmentalism has encountered charges of “elitism.”<sup>93</sup> Not all assertions of elitism are the same, however, and it is worthwhile fleshing out the different claims that have been made. Sociologists Denton E. Morrison and Riley E. Dunlap identify the three different types of accusations levied against the environmental movement: (1) compositional elitism; (2) ideological elitism; and (3) impact elitism.<sup>94</sup> Because an in depth review of the literature on environmental elitism is outside the scope of this essay, this part will confine itself to a description of Morrison and Dunlap’s three categories of elitism, updating and adding to them slightly. The purpose is to offer a taste of the claims regarding environmental elitism so that readers may begin to contextualize the arguments made in Parts III, IV, and V and explore such claims on their own.

### A. COMPOSITIONAL ELITISM

Compositional elitism is “the accusation that the supporters of environmentalism are drawn primarily from the privileged or upper socioeconomic strata—that is, that environmentalists constitute a socioeconomic elite.”<sup>95</sup> This type of elitism can be further subdivided into (a) claims that “core environmentalists”—the leaders and active members of formal environmental organizations—come mostly from the privileged or upper

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racialized and ethnicized, or to turn the point around, racial and ethnic categories are always already class categories.” SHERRY B. ORTNER, *ANTHROPOLOGY AND SOCIAL THEORY: CULTURE, POWER, AND THE ACTING SUBJECT* 78, 77, 73 (2006). Like Ortner, I do not claim that class can never be separated from race or ethnicity. Rather, for the purposes of this article, it seems more instructive to consider class as fused with ethnicity and race, and to allow future and further inquiries to separate “class” and “ethnicity” or “race.” See *infra* Parts IV and V.

93. Denton E. Morrison & Riley E. Dunlap, *Environmentalism and Elitism: a Conceptual and Empirical Analysis*, 10(5) ENVTL. MGMT. 581, 581 (1986) (explaining that “[t]he charge that environmentalism is ‘elitist’ has been made in many specific environmental conflicts and has also been a constant theme in general debates about environmentalism. Elitism has been a major issue from the early days of the environmental movement to the present”) (citing RICHARD NEUHAUS, *IN DEFENSE OF PEOPLE: ECOLOGY AND THE SEDUCTION OF RADICALISM* 27-41 (1971)). See, e.g., Matthew Klinge & Joseph E. Taylor III, *Caste From the Past: Environmentalism’s elitist tinge has roots in the movement’s history*, GRIST (Mar. 8, 2006), available at <http://www.grist.org> (last visited Nov. 21, 2009).

94. Morrison & Dunlap, *supra* note 93, at 581-89; see also Steven A. Light & Kathryn R.L. Rand, *Is Title VI a Magic Bullet? Environmental Racism in the Context of Political-Economic Processes and Imperatives*, 2 MICH. J. RACE & L. 1, 14 (1996) (citing Morrison & Dunlap, *supra* note 93, at 581).

95. Morrison & Dunlap, *supra* note 93, at 581.

socioeconomic strata;<sup>96</sup> and (b) claims that “environmental concern” is greater among those in the higher socioeconomic strata.<sup>97</sup>

With respect to this first sort of compositional elitism, Morrison and Dunlap found in their study that while the “modal member of an environmental organization is a college graduate, holds a professional-level job, and has an above-average income . . . [, such] environmentalists are more unrepresentative of the general population in terms of education and occupation than in terms of income.”<sup>98</sup> As such, they concluded, “upper-middle class” might be a better description of the socioeconomic level of the members of formal environmental organizations, rather than “upper-class.”<sup>99</sup>

Despite this finding and clarification, claims of the first order of compositional elitism were particularly pronounced in the early 1990s when non-Anglo activists and representatives of community-based groups accused the ten largest national environmental organizations (known as the “Group of Ten”)<sup>100</sup> of discrimination in their hiring and promoting practices and asserted that these mainstream groups turned a blind eye to the concerns of poor or minority communities—communities frequently and disproportionately affected by environmental hazards and negative land uses.<sup>101</sup> Many of the mainstream environmental organizations responded to the cry of racism and “whiteness” in and of the environmental movement<sup>102</sup> by integrating environmental justice issues<sup>103</sup> into their agendas.<sup>104</sup> While

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96. *Id.* at 582.

97. *Id.* at 583.

98. *Id.* at 582.

99. *Id.*

100. See Avi Brisman, *Toward a More Elaborate Typology of Environmental Values: Liberalizing Criminal Disenfranchisement Laws and Policies*, 33 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 283, 369 n.433 (2007) [hereinafter *Toward a More Elaborate Typology*] (explaining that the “Group of Ten” included the Environmental Defense Fund, Environmental Policy Institute, Friends of the Earth, Izaak Walton League, National Audubon Society, National Parks Conservation Association, National Wildlife Federation, Natural Resources Defense Council, Sierra Club, and the Wilderness Society).

101. See, e.g., *id.* at 283, 369-71, 375-76 (discussing this particular claim of environmental elitism); ROBERT GOTTLIEB, *FORCING THE SPRING: THE TRANSFORMATION OF THE AMERICAN ENVIRONMENTAL MOVEMENT* 260-69 (1993); Philip Shabecoff, *Environmental Groups Told They Are Racists in Hiring*, N.Y. TIMES, Feb. 1, 1990, at A20; PHILIP SHABECOFF, *A FIERCE GREEN FIRE: THE AMERICAN ENVIRONMENTAL MOVEMENT* 281-83 (1993).

102. See Brisman, *Toward a More Elaborate Typology*, *supra* note 100, at 369 (explaining that the largest environmental groups discriminate in their hiring practice).

103. Environmental justice, as defined at the 1991 People of Color Environmental Leadership Summit in its document, “Principles of Environmental Justice,” is “the pursuit of equal justice and equal protection under the law for all environmental statutes and regulations without discrimination based on race, ethnicity, and/or socioeconomic status.” See Environmental Justice Resource Center, *Principles on Environmental Justice*, Oct. 27, 1991, <http://www.ejrc.cau.edu/princej.html>; see also Avi Brisman, *Crime-Environment Relationships and Environmental Justice*, 6(2) SEATTLE J. FOR SOC. JUSTICE 727, 727 (2008) [hereinafter *Crime-Environment*



some commentators still employ the term, “the white green movement,” to describe the goals and efforts of the more mainstream environmental organizations,<sup>105</sup> others suggest that this type of compositional elitism is significantly less pervasive or pronounced.<sup>106</sup>

With respect to the second type of compositional elitism, Morrison and Dunlap noted that while early studies identified positive relationships between indicators of socioeconomic level and public concern for the environment, more recently, education—rather than occupational prestige and income—is more closely related to environmental concern.<sup>107</sup> Morrison and Dunlap suggested that “while core environmentalists are well above average in socioeconomic level, public support for the environmental movement is drawn fairly broadly from the full range of socioeconomic

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*Relationships*] (“[T]he fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.”); Avi Brisman, *EPA’s Disproportionate Impact Methodologies—RBA and COATCEM—and the Draft Recipient Guidance and Draft Revised Investigation Guidance in Light of Alexander v. Sandoval*, 34 CONN. L. REV. 1065, 1107 n.19 (2002) (explaining that scholars and advocates seeking environmental justice have focused on the extent to which minority populations and low-income populations “bear a disproportionate burden of the negative human health or environmental impacts of pollution or other environmental consequences resulting from industrial, municipal, and commercial operations of federal, state, local and tribal programs and policies”) (citing OFFICE OF FEDERAL ACTIVITIES, ENVTL. PROT. AGENCY, FINAL GUIDANCE FOR INCORPORATING ENVIRONMENTAL JUSTICE CONCERNS IN EPA’S NEPA COMPLIANCE ANALYSIS (1998)).

104. Brisman, *Toward a More Elaborate Typology*, *supra* note 100, at 370; *cf.* Paul Mohai, *Black Environmentalism*, 71(4) SOC. SCI. Q. 744, 750, 757, 762 (Dec. 1990) [hereinafter *Black Environmentalism*] (suggesting that while blacks are not less concerned about environmental quality issues than whites, rates of environmental participation are significantly lower for blacks than for whites, even after controlling for SES and other variables, perhaps due to “structural barriers that may be imposed on blacks by the largely white, upper-middle-class makeup of the mainstream environmental movement”); Paul Mohai & Bunyan Bryant, *Is There a “Race” Effect on Concern for Environmental Quality?*, 62(4) THE PUB. OPINION Quarterly 475, 476 (Winter 1998) [hereinafter *Race Effect*] (“despite the growing grassroots involvement of people of color, they are underrepresented in mainstream environmental organizations”); Paul Mohai, *Dispelling Old Myths: African American Concern for the Environment*, 45(5) ENV’T 11, 21 (2003) [hereinafter *Dispelling Old Myths*] (“African Americans historically have not been well represented in the memberships of the major environmental groups, such as the Sierra Club, the Audubon Society, and the National Wildlife Federation, an outcome that may reflect long-held feelings of African Americans and other people of color that their environmental concerns and priorities have not been important to these organizations.”).

105. *See* Brisman, *Toward a More Elaborate Typology*, *supra* note 100, at 370-71 (explaining that there is a disproportionate impact on prior and minority populations).

106. Brisman, *Toward a More Elaborate Typology*, *supra* note 100, at 370 n.440; *see also* Matthew Klinge & Joseph E. Taylor III, *Caste From the Past: Environmentalism’s Elitist Tinge Has Roots in the Movement’s History*, GRIST. Mar. 8, 2006, <http://www.grist.org/comments/soapbox/2006/03/08/klinge/index.html>.

107. Morrison & Dunlap, *supra* note 93, at 583. Morrison and Dunlap clarified that “while both education and income are strongly related to *reported membership* in environmental organizations, and education is moderately related to *expressed support* for the movement, there is only a slight relationship between income and the expression of support for the movement in the general public.” *Id.* (emphasis added).

data.”<sup>108</sup> Thus, they concluded, supporters of environmentalism do not constitute a socioeconomic elite, “[r]ather, support for environmentalism is diffuse in the population as a whole; it is only moderately related to socioeconomic level, and most to education at that.”<sup>109</sup> This conclusion has been repeatedly affirmed by Paul Mohai, whose survey data in the 1980s and early 1990s revealed that African Americans are not less concerned about environmental quality than whites,<sup>110</sup> and whose subsequent studies in the mid-to-late 1990s and early 2000s again showed that “concern for the environment is broad based in American society. To the extent that there is a racial divide in American society, differences in concerns about environmental quality issues do not appear to be part of it.”<sup>111</sup>

108. *Id.*

109. *Id.* Morrison and Dunlap actually take their findings and argument one step further and hypothesize that “the opponents of environmentalism come closer to being an elite than do core environmentalists. Much of the most vocal, coordinated opposition to environmentalism comes from the top levels of corporate management.” *Id.*

110. Paul Mohai, *Public Concern and Elite Involvement in Environmental-Conservation Issues*, 66(4) SOC. SCI. Q. 820, 821 (1985) [hereinafter *Public Concern*]; Mohai, *Black Environmentalism*, *supra* note 108, at 744-65. Indeed, Mohai found that African Americans are “as concerned or more concerned about environmental quality compared to whites.” Mohai, *Black Environmentalism*, *supra* note 104, at 761-62.

111. Mohai & Bryant, *Race Effect*, *supra* note 104, at 502; *see also* Mohai, *Dispelling Old Myths*, *supra* note 104, at 15, 23 (“African Americans are, at the very least, as concerned as whites are about pollution and related environmental problems having implications for human health. . . . African Americans are as concerned about the same kinds of environmental issues as are white Americans, even about harms to nature and global environmental problems—the issues that, according to commonly held assumptions, were least likely to be of concern to African Americans.”).

Mohai’s 1985 study concluded upper-middle class environmental activism is primarily the result of that class’s greater access to resources and greater sense of personal efficacy. Those who exhibit a great degree of concern for the environment but who are low in the availability of resources and low in their confidence in affecting the political system can be expected to be discouraged from taking political action. Thus the upper-middle-class link with environmental activism can be seen as a link between that class and the factors of political activism rather than a link between the upper-middle class and environmental concern as has often been asserted. . . . Mohai, *Public Concern*, *supra* note 110, at 836-37. Mohai’s 1990 study found that while African Americans were not less concerned about environmental quality issues than whites, rates of environmental participation were significantly lower for African Americans than for whites, even after controlling for SES and other variables—a phenomenon that he attributed to structural barriers to environmental activity. Mohai, *Black Environmentalism*, *supra* note 104, at 750, 762.

In his 1998 article, Mohai again attributed African American underrepresentation in the mainstream environmental movement, despite the lack of evidence of a race effect on environmental concern, to limited access to resources and a lower sense of personal efficacy. Mohai & Bryant, *Race Effect*, *supra* note 104, at 501-02. In his 2003 article, Mohai presented a slight shift, arguing that “concerns about environmental injustices and the perception that their concerns have not been important to traditional environmentalists have caused African Americans and other people of color to create their own environmental organizations and movement,” Mohai, *Dispelling Old Myths*, *supra* note 104, at 25. He concluded “African Americans are strong environmentalists. . . . [T]his is true whether it is measured by expressed concern, individual actions, membership in environmental groups, or votes by African-American members of Congress.” *Id.* Despite his efforts to undercut the assumption that African Americans are not concerned about environmental quality issues, Mohai still asserts that national environmental

## B. IDEOLOGICAL ELITISM

Ideological elitism involves the accusation that “environmental reform proposals . . . hav[e] the underlying purpose of distributing benefits to environmentalists and costs to non-environmentalists, particularly to the least privileged.”<sup>112</sup> Here, the allegation is that “concern for environmental protection is a subterfuge for the pursuit of self-interest.”<sup>113</sup> Thus, for example, William Tucker has argued that efforts by environmentalists to block an electrical generating facility on the Hudson River in the mid-1970s on “environmental” grounds were really attempts undertaken to protect property interests and aesthetic values<sup>114</sup>—interests and values uniquely their own and antithetical to those of lesser means who would encounter higher energy costs as a result of the failure to build the facility.<sup>115</sup> In a slightly different vein, Richard John Neuhaus accuses environmentalists of ideological elitism on the grounds that environmental reforms direct social and economic resources toward the affluent and away from issues and problems that are important to and plague the poor.<sup>116</sup>

Although Morrison and Dunlap noted that “contrary to what one would expect if environmentalism were ideologically elitist . . . support for environmental reform among national legislators is strongly related to liberal political ideology and moderately related to Democratic partisanship.”<sup>117</sup> They also acknowledged the saliency of some accusations of ideological elitism, especially with respect to issues of wilderness, wildlife, and natural preservation—issues that are more likely to attract the attention of those who can afford to travel to national parks and other wilderness areas.<sup>118</sup> Indeed, Morrison and Dunlap urged core environmentalists to combat assertions of ideological elitism by investing time and effort in the environmental quality of inner cities and industrial workplaces, as well as

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groups should acknowledge their potentially strong allies among the African American population and should “reach out more to them and to other people of color by focusing attention and lending support on the environmental issues of special concern to them.” *Id.*

112. Morrison & Dunlap, *supra* note 93, at 581.

113. *Id.*

114. See William Tucker, *Environmentalism and the leisure class*, HARPER'S MAG., Dec. 1977, at 49-56, 73-80 (describing that the environmental movement has served to protect the status quo and interests of the upper-middle class at the expense of less-privileged groups); see generally WILLIAM TUCKER, PROGRESS AND PRIVILEGE: AMERICA IN THE AGE OF ENVIRONMENTALISM (1982); Morrison & Dunlap, *supra* note 93, at 584.

115. See *infra* Part III.3.

116. See generally NEUHAUS, *supra* note 93; see also Morrison & Dunlap, *supra* note 93, at 584.

117. Morrison & Dunlap, *supra* note 97, at 585.

118. *Id.* at 584.

devoting resources for the provision of adequate housing for lower socioeconomic strata.<sup>119</sup>

Arguably, core environmentalists have met, or at least made progress in meeting, the challenge set forth by Morrison and Dunlap some twenty years ago.<sup>120</sup> But ideological elitism may still exist in other situations and it is partly out of fear of environmentalists' pursuit of self-interest that I have undertaken this essay.

### C. IMPACT ELITISM

Impact elitism entails the accusation that “environmental reforms have, whether intentionally or not, distributed benefits to environmentalists and costs to others, especially to the least privileged—that is, that environmental reforms have regressive distributional impacts.”<sup>121</sup> According to Morrison and Dunlap, this sort of claim of environmental elitism is particularly problematic because not only have the distributional impacts of environmental reforms not been registered or even analyzed, but it is also not entirely clear what type of analysis would need to be undertaken in order to produce a comprehensible picture of net impact.<sup>122</sup> Nevertheless, the media is often drawn to allegations of negative distributional impacts of environmental reforms, especially when such accusations involve assertions that the reforms will result in plant closures or job layoffs or will somehow negatively affect the public at large and the lower socioeconomic strata in particular.<sup>123</sup>

Morrison and Dunlap bemoan this depiction of “jobs versus environment.”<sup>124</sup> “Since the lower socioeconomic strata suffer from poorer health, and since many health problems are environmentally caused or are exacerbated by environmental factors,” Morrison and Dunlap reason, “environmental protection would seem in a broad sense to be in the interest of the underclass.”<sup>125</sup> In fact, “the number of jobs lost through pollution control regulations in industry is small relative to the number of jobs created by such regulations.”<sup>126</sup> Given that pollution control regulations frequently create jobs and that environmental health hazards—especially those in the workplace—often result in job loss or lost days of work, why

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119. *Id.* at 585.

120. *See supra* Part II.1.

121. Morrison & Dunlap, *supra* note 93, at 581.

122. *Id.* at 585.

123. *Id.* at 585-86.

124. *Id.* at 585; *see also* Brisman, *Aesthetics*, *supra* note 66, at 17-23.

125. Morrison & Dunlap, *supra* note 93, at 586.

126. *Id.* at 585; *see also* Brisman, *Aesthetics*, *supra* note 66, at 43, 48-55.

have industry and business leaders been effective at resisting pollution control measures on the grounds of potential regressive impacts? Morrison and Dunlap speculate that while “[r]egressive impacts from some environmental reforms tend to be rather easily predictable and are, when they occur, often highly visible (such as job losses from plant closings). . . . The impacts, especially the regressive impacts, of environmental *problems* (the impacts of *not* making the reforms) tend to be more incremental and less visible.”<sup>127</sup> Thus, despite the fact that the regressive impacts of avoiding environmental reforms may indeed constitute a more devastating threat to the poor than the potential or actual regressive impacts of adopting and implementing such reforms,<sup>128</sup> the potential or actual immediacy of the regressive impacts of environmental controls leads to claims of negative disproportionate distributional effects—claims that may be extrapolated or enlarged to “environmentalism is *in general* regressive in its impacts.”<sup>129</sup>

In this essay, I do not make assertions about compositional elitism. Although I am concerned about compositional elitism in general, I do not claim in this essay that environmentalists come from a particular class or socioeconomic strata, and I do not assert that environmental concern is greater among a particular race or class. In addition, this essay does not promulgate allegations of ideological elitism, despite the concerns expressed at the end of my section on ideological elitism. Rather, the assertions that follow come closest to arguments of impact elitism. The regressive social impact that I am claiming is not negative impacts disproportionately distributed to the less fortunate, but exclusion from environmentally beneficial activities, behaviors, and consumption patterns as a result of desires to claim membership in a particular group or class.

### III. EXCLUSIVITY IN GREEN CONSCIOUSNESS: VEHICLE CHOICE AND FOOD CHOICE

In this part, I contemplate green consciousness with respect to two different attitudes and behaviors—vehicle choice and food choice. I argue that whatever environmental benefits are achieved with certain decisions and practices, they may be offset by their limited availability to certain categories of people, and that these exclusive attitudes and behaviors fail to affect other pressing environmental and human health problems.

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127. Morrison & Dunlap, *supra* note 93, at 586 (emphasis added). As an example of a slow, but important impact, Morrison and Dunlap point to the emerging evidence of genetic damage from exposure to toxic material in the workplace. *Id.*

128. *Id.* at 587.

129. *Id.*

## A. SUVs, HUMMERS, HYBRIDS, AND HYBRID SUVs

Much has been written condemning SUVs—derisively referred to as “Death Stars”<sup>130</sup>—some of which, such as the Denali, are “bigger than some Third World houses.”<sup>131</sup> Others specifically scorn Hummers—the “ultimate poseur vehicle”<sup>132</sup>—as evil, environmentally destructive *lusus naturae*. Indeed, the environmental degradation caused by these vast, vain, and vicious vehicles with voracious appetites for volumes of foreign gasoline, which never vouchsafe space on highways and treat all other four-wheel automobiles as inconsequential beetles, bugs, and vermin, is well-known.<sup>133</sup> Much has also been written documenting the safety risks of SUVs to drivers as well as to other vehicles in the event of an accident.<sup>134</sup>

130. Hesse, *supra* note 65, at C01.

131. Neela Banerjee, *The S.U.V. Is Still King, Even as Gas Prices Soar*, N.Y. TIMES, May 4, 2004, at C1, C6.

132. Danny Hakim, *No Longer the Next Big Thing: Hummer Offers First Rebates*, N.Y. TIMES, May 17, 2004, at A1; *see also* Josh Lauer, *Driven to extremes: Fear of Crime and the Rise of the Sport Utility Vehicle in the United States*, 1(2) CRIME MEDIA CULTURE 149, 164 (2005).

133. *See, e.g.*, KEITH BRADSHAW, HIGH AND MIGHTY: SUVs: THE WORLD’S MOST DANGEROUS VEHICLES AND HOW THEY GOT THAT WAY 127-338 (2002); Avi Brisman, *Double Whammy: Collateral Consequences of Conviction and Imprisonment for Sustainable Communities and the Environment*, 28 WM. & MARY ENVTL. L. & POL’Y REV. 423, 462 (2004) [hereinafter *Double Whammy*]; Jim Gorzelany, *Dirty Driving: Top 10 Worst Polluters*, ForbesAuto.com, available at <http://autos.yahoo.com/> (last visited Nov. 21, 2009); Danny Hakim, *The Nation: The Price of Success; Now, Add God to the List of Enemies of the S.U.V.*, N.Y. TIMES, Nov. 24, 2002, at WK3; JOEL S. HIRSCHORN, SPRAWL KILLS: HOW BLAND BURBS STEAL YOUR TIME, HEALTH AND MONEY 92, 101, 150, 187, 202, 219, 223, 342, 375, 378, 389 (Sterling & Ross Publishers, Inc. 2005); *cf.* Pinker, *supra* note 68, § 6:32, 35 (pointing out the inconsistency that “[d]riving a gas-guzzling Hummer is [seen as] reprehensible, but driving a gas-guzzling old Volvo is not”).

134. *See, e.g.*, Brisman, *Double Whammy*, *supra* note 133, at 463-65; Nick Bunkley, *David (Car) Has Better Chance Against Goliath (S.U.V.)*, N.Y. TIMES, June 13, 2006, at C1, C4; Gregg Easterbrook, *Axle of Evil, America’s Twisted Love Affair with Sociopathic Cars*, NEW REPUBLIC, Jan. 20, 2003 at 27-35; Malcolm Gladwell, *Commerce & Culture “Big and Bad,”* THE NEW YORKER, Jan. 12, 2004, at 28-33; Danny Hakim, *Despite Defect, G.M. Keeps Selling S.U.V.*, N.Y. TIMES, Nov. 23, 2004, at C1, C13; Danny Hakim, *Safety Gap Grows Wider Between S.U.V.’s and Cars*, N.Y. TIMES, Aug. 17, 2004, at C1, C5; Danny Hakim, *Suspension Failure on Saturn S.U.V.’s in Rollover Tests Prompts Inquiry*, N.Y. TIMES, July 27, 2004, at C1, C6; *Used S.U.V.’s Come Loaded, With Safety Concerns*, N.Y. TIMES, June 26, 2005, at WK3; Jeremy W. Peters, *Pickups and S.U.V.’s Do Poorly in Whiplash Tests*, N.Y. TIMES, Jan. 9, 2006, at C2; *see also* Ken Thomas, *Small SUVs Improve in Crash Tests*, USA TODAY, Aug. 20, 2008, <http://www.usa.today.com/> (stating that SUVs have also been accused of contributing to the bridge collapse in Minneapolis in August 2007); Ralph W. Howard, *Preventing the Next Bridge Collapse* (Letter to the Editor), N.Y. TIMES, Aug. 4, 2007, at A26.

While hybrid vehicles, discussed below, generally do not receive complaints about their safety, there are some exceptions. *See, e.g.*, Helen Altonn, *Quiet hybrid cars pose risks for blind*, HONOLULU STAR-BULLETIN, June 2, 2008, at A5; Amy Zimmer, *Hybrid cabs pegged as ‘unfit and unsafe,’* METRO (New York), Sept. 9, 2008, at 1 (reporting claims by the Metropolitan Taxicab Board that hybrid cabs block side-curtain airbags and have less legroom which could result in passengers hitting their faces).

Others have focused on a different kind of safety threat, claiming that SUVs threaten our national security—the most prominent of whom is Thomas L. Friedman, *The New York Times* columnist. Friedman argues that:

[o]ur military is in a war on terrorism in Iraq and Afghanistan with an enemy who is fueled by our gasoline purchases. So we are financing both sides in the war on terror. . . . Here's a rule of thumb: The more Hummers we have on the road in America, the more military Humvees we will need in the Middle East.<sup>135</sup>

Still others condemn SUVs not for their adverse environmental impact or threat to safety on the roads and abroad, but on the grounds that that SUVs, in general, and Hummers, in particular, convey a message of disdain and disregard for those of a different social strata. According to Lauer:

[s]uch outsized late-1990s models convey a cavalier egotism that is less indicative of heightened risk consciousness than of overt class consciousness. The Hummer demands to be noticed and admired as an exclusionary status symbol. The protective features of second generation SUVs seem gratuitously aesthetic in comparison to earlier models.<sup>136</sup>

Easterbrook, in his article, *Axle of Evil*, is even more blunt, proposing that Hummers be renamed “FUVs” because they scream, “Fuck you, asshole!”<sup>137</sup>

SUVs appear to be part of the contemporary “bigger is better” ethos,<sup>138</sup> with megayachts<sup>139</sup> and “mobile McMansions”<sup>140</sup>—“the antithesis of low-

135. Thomas L. Friedman, *A Quick Fix For The Gas Addict*, N.Y. TIMES, May 31, 2006, <http://www.nytimes.com/>; Thomas L. Friedman, *Gas Pump Geopolitics*, N.Y. TIMES, Apr. 28, 2006, at A25 (“we are financing both sides in the war on terrorism: financing the U.S. military with our tax dollars, and Islamist radicals and states with our energy purchases”); see also Thomas L. Friedman, *Geo-Greening by Example*, N.Y. TIMES, Mar. 27, 2005, at WK11; Friedman, *The Power of Green*, *supra* note 47, at 40, 43; Melanie Warner, *Would You Like A Gas Guzzler With That?*, N.Y. TIMES, Aug. 10, 2006, at C4 (“With toy Hummers [in Happy Meal boxes], McDonald’s is ‘sending a message to children that utter waste of this precious resource that is causing us such national security problems is O.K.’”); see generally Robert F. Kennedy, Jr., *The Next President’s First Task*, VANITY FAIR, May 2008, at 228, 228-29; cf. Woody Hochswender, *Did My Car Join Al Qaeda?*, N.Y. TIMES, Feb. 16, 2003 (disputing the contention that “America’s fuel consumption—indeed, our very style of life—is somehow responsible for the enmity toward us in the Middle East, not to mention the rest of the world.”).

136. Lauer, *supra* note 132, at 149, 164 (2005); see also Adam Geller, *Troubles fail to drive down Hummer owners’ passion*, USA TODAY, July, 26, 2008, available at <http://www.usa.today.com> (last visited Nov. 21, 2009) (quoting AM General spokesman Craig Mac Nab for the proposition, “It has no aesthetics. It screams at you from across the street: I look this way because I need to.”); Schor, *Towards a New Politics of Consumption*, *supra* note 77, at 449 (“Trophy homes, diamonds of a carat or more, granite countertops, and sport utility vehicles are the primary consumer symbols of the late-1990s.”).

137. Easterbrook, *supra* note 134, at 34.

impact living”<sup>141</sup>—serving as obvious other examples.<sup>142</sup> Even micro-lending seems to be getting bigger<sup>143</sup> and for those in the highest tax bracket, “[t]hree is the new two when it comes to having kids”<sup>144</sup>—or “[t]hree is the new Hummer.”<sup>145</sup> Yet, despite this ostensible infatuation with excess and largess, more recently, there appears to be a turn away from SUVs,<sup>146</sup> either because of their environmental evils, interest in conservation and environmentalism—following Hurricane Katrina,<sup>147</sup> the “social stigma” of driving such vehicles “at a time of looming economic

138. See JOHN DICKER, *THE UNITED STATES OF WAL-MART* 2-3, 4, 51, 55, 59 (2005); see also RANK, *supra* note 64, at 161 (“Signs of such extreme wealth are not hard to find. Trophy houses of 10,000 or more square feet can be found sprouting up in affluent neighborhoods throughout the country. Consumption of particular luxury items has hit an all-time high. Exorbitant stock options and bailouts appear almost routine within the upper echelons of American business.”). Note that the “bigger is better” ethos is not limited to the United States. See, e.g., Lisa Margonelli, *China’s Next Cultural Revolution*, WIRED, Apr. 2005, at 106, 109, 111 (explaining that in China, individuals are attaching prestige to big cars, and reporting that “the nouveau riche compete to conspicuously out consume each other”).

Dicker notes, however, that “American corporations have a history of trying to de-emphasize their size and their influence” and that “America has long had a paradoxical relationship with its supersized self.” DICKER, *supra* note 138, at 62, 211; see, e.g., Dan Barber, *Change We Can Stomach*, N.Y. TIMES, May 11, 2008, at WK13 (explaining that chefs “never bought into the ‘bigger is better’ mantra . . . because it never produced anything really good to eat”). For anthropologist Sherry B. Ortner, it is not so much a “bigger is better” ethos, but a “collective self-indulgence” that characterizes the generation most responsible for such lifestyles and purchases. See ORTNER, *supra* note 92, at 86.

139. Patricia Kranz, *Measuring Wealth By the Foot*, N.Y. TIMES, Mar. 16, 2008, at BU1, BU8.

140. John Schwartz, *Housing Crisis? Try Mobile McMansions*, N.Y. TIMES, Dec. 2, 2007, at BU1, 10-11; see generally *Introduction*, *supra* note 95, at vii; but see Linda Baker, *The Green RV*, N.Y. TIMES, Nov. 7, 2008, at D1, D8 (describing efforts by some to “[transform the ultimate] gas guzzler” into “model[s] of compact green construction and fuel efficiency”).

141. Baker, *supra* note 140, at D1.

142. See Rosenthal, *Trying to Build*, *supra* note 3 (discussing \$5 million “eco-mansions” built by movie stars).

143. Elisabeth Malkin, *Microloans, Big Profits*, N.Y. TIMES, Apr. 5, 2008, at B1, B4.

144. Kate Zernike, *Pamperers*, THE NEW YORK TIMES BOOK REVIEW, Apr. 6, 2008, at 8 (reviewing PAMELA PAUL, *PARENTING, INC.: HOW WE ARE SOLD ON \$800 STROLLERS, FETAL EDUCATION, BABY SIGN LANGUAGE, SLEEPING COACHES, TODDLER COUTURE, AND DIAPER WIPE WARMERS—AND WHAT IT MEANS FOR OUR CHILDREN* (2008)) (quoting a Manhattan preschool admission adviser).

145. *Id.* (quoting an Upper East Side Manhattan obstetrician).

146. Nick Bunkley & Bill Vlasic, *Nearly the End of the Line for S.U.V.’s*, N.Y. TIMES, Dec. 24, 2008, at B1, B4; Richard S. Chang, *Hummer to Get Heave Ho?*, N.Y. TIMES, June 3, 2008, at AU6; Nichola Groom, *From Hybrids to SUVs, Unsold Cars Pile Up*, REUTERS, Dec. 7, 2008, available at <http://www.reuters.com/> (last visited Nov. 21, 2009); Bill Vlasic & Nick Bunkley, *Buyers Flock to Small Cars*, N.Y. TIMES, May 2, 2008, at A1; Bill Vlasic & Nick Bunkley, *Toyota Scales Back Production of Big Vehicles*, N.Y. TIMES, July 11, 2008, at C1, C5; cf. Joe McDonald, *Gas Guzzlers a Hit in China, Where Car Sales are Booming*, SAN. FRAN. CHRONICLE, Apr. 21, 2008, available at <http://www.sfgate.com/> (last visited Nov. 21, 2009) (noting that while SUV sales in the U.S. are falling, SUVs represent the fastest growing market segment in China); but see Geller, *supra* note 136.

147. See, e.g., Associated Press, *Paying More at the Pump, Governors Park S.U.V.’s*, N.Y. TIMES, Oct. 16, 2005, at 16; Friedman, *The Power of Green*, *supra* note 47, at 40, 42, 72.



austerity”<sup>148</sup>—or because of the price of gasoline,<sup>149</sup> which reached a historic high in July 2008,<sup>150</sup> before falling to the lowest average national price in nearly five years in December of 2008.<sup>151</sup>

Many continue to denounce SUVs for the reasons noted above,<sup>152</sup> and perhaps rightly so. But we have more important fish to fry, to use a non-eco-friendly phrase: the potential exclusion of a class of individuals from a behavior and set of attitudes that we want them to adopt.

“Goods have symbolic meanings in all societies,” Douglas B. Holt and Juliet B. Schor write in the introduction to their anthology, *The Consumer Society*.<sup>153</sup> When hybrids first hit the market, they were considered wimpy cars for tree-huggers.<sup>154</sup> In a short period of time, however, their popularity has skyrocketed.<sup>155</sup> Some of this desirability may be correlated with the

148. Eddie Alterman, *Here Today, Gone Tomorrow*, N.Y. TIMES, Nov. 16, 2008, at AU2.

149. See, e.g., *As Gas Prices Go Up, Impact Trickles Down*, N.Y. TIMES, Apr. 30, 2006, at 24; *You Know Gas Prices Are High When Texans Start Driving Golf Carts*, WALL ST. J., July 31, 2008, available at <http://online.wsj.com/> (last visited Nov. 21, 2009); Danny Hakim, *Ideas and Trends: Tipping Points; At \$2 a Gallon, Gas Is Still Worth Guzzling*, N.Y. TIMES, May 16, 2004, § 4:14; Danny Hakim, *Big S.U.V.'s Lag in Sales, Hindered By Gas Cost*, N.Y. TIMES, Oct. 4, 2005, at C1, C4.

Note that rising gas prices in the summer of 2008 led to other behavior—and consumption-modifying practices—some with negative environmental implications. See, e.g., Adam B. Ellick, *Low Mexican Prices Draw Americans*, N.Y. TIMES, June 25, 2008, at A14 (reporting the rise of American “gas tourists,” who cross the border into Mexico for cheaper gasoline—fuel with higher sulfur content than what is allowed in the United States and which, over time, “could compromise vehicle emissions systems”); Christopher B. Leinberger, *The Next Slum?*, ATLANTIC, Mar. 2008, available at <http://www.theatlantic.com/doc/200803/subprime> (last visited Nov. 21, 2009) (“If gasoline and heating costs continue to rise, conventional suburban living may not be much of a bargain in the future.”); Keith Naughton, *Natural Response*, NEWSWEEK, May 12, 2008, at 48 (“[N]ow with gas near \$4 a gallon, the \$7 gallon of organic milk doesn’t look as good.”); Sam Dillon, *High Cost of Driving Ignites Online Classes Boom*, N.Y. TIMES, July 11, 2008, at A1, A13.

150. Jad Mouawad, *OPEC Ends Its Meeting With No Plan To Lift Prices*, N.Y. TIMES, Dec. 1, 2008, at B3; Jad Mouawad, *OPEC, Struggling to Move in Concert, Considers Cutting Output*, N.Y. TIMES, Nov. 30, 2008, at 9.

151. ASSOCIATED PRESS, *Price of Gas Hits Lowest Point in Nearly 5 Years*, Dec. 21, 2008, available at <http://www.msnbc.msn.com/id/28339707/> (last visited Nov. 21, 2009).

152. See, e.g., Bonnie Erbe, *It’s Time to Get Tough on Gas-Guzzlers*, HONOLULU STAR BULLETIN, May 29, 2008, at A9; Owen D. Gutfreund, *Pick On The Big Guys*, N.Y. TIMES, Apr. 9, 2008, at A27.

153. Holt & Schor, *Introduction*, *supra* note 91, at xii; see generally ROB WALKER, *BUYING IN: THE SECRET DIALOGUE BETWEEN WHAT WE BUY AND WHO WE ARE* (2008) (illustrating how individual Americans invest the products they purchase with personal meaning).

154. See, e.g., Jane Gross, *From Guilt Trip to Hot Wheels*, N.Y. TIMES, June 13, 2004, at 1; Brendan I. Koerner, *Rise of the Green Machine*, WIRED, Apr. 2005, at 96, 99.

155. See, e.g., Lynda Arakawa, *Hybrids in Heavy Demand*, THE HONOLULU ADVERTISER, May 27, 2008, at A1, A5. The jury, however, is still out on hybrid SUVs because just a few years ago, “green S.U.V.s” did not exist and seemed a long way off. See, e.g., Danny Hakim, *Peering at the Sticker on a Cleaner Car*, N.Y. TIMES, Nov. 2, 2004, at C1, C11; Jim Motavalli, *A Green S.U.V., at Least in Theory*, N.Y. TIMES, Apr. 26, 2004, at D9. One commentator, however, is quite vociferous in his dislike for the Cadillac Escalade Hybrid:

declining popularity of SUVs—in other words, as SUV sales have dropped, hybrid sales have risen. But according to one commentator, sales of hybrids, especially the Prius, have escalated because “[t]he Prius has become, in a sense, the four-wheel equivalent of those popular rubber ‘issue bracelets’ in yellow and other colors—it shows the world that its owner cares. . . . [B]uyers of the Prius want everyone to know they are driving a hybrid.”<sup>156</sup> Similarly, Art Spinella, president of CNW Marketing Research, which tracks auto industry trends, remarks that “small cars are like a fashion statement.”<sup>157</sup> Indeed, survey research conducted by Spinella’s company of top reasons customers buy a Prius indicates that in the first quarter of 2004, 34% of surveyed individuals responded that they purchased their hybrid because it “makes a statement about me.”<sup>158</sup> By the second quarter of 2007, this number had jumped to 57%.<sup>159</sup>

What exactly is this statement made by “pious Prius owners?”<sup>160</sup> It might be, as Micheline Maynard suggests, that hybrid drivers want to display their commitment to environmentally friendly living. But as another commentator suggests, the statement may be “I am holier-than-thou.”<sup>161</sup> French medical anthropologist, Dr. G. Clotaire Rapaille, offers a different interpretation: the message the Prius sends is not just “look at us saving the planet,” but “I’m more intelligent than the next guy.”<sup>162</sup> Similarly, Brendan I. Koerner explains that the “look-at-me factor” has helped make the Prius a hit: “Buy a hybrid and passersby will know that you’re both hip and intelligent, not to mention part of a club that includes Leonard DiCaprio, Cameron Diaz, and former CIA director James Woolsey.”<sup>163</sup> And if price-gouging by hybrid dealers persists—with mark-

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The Escalade is by definition proudly decadent, unapologetic in its message of chromed big-rimmed excess, and that style is wildly at odds with the righteousness conservationism proclaimed by most hybrids. A hybrid Escalade is like alcohol-free Scotch, a hemp-banded Rolex, a cinematically subtle Jerry Bruckheimer movie. The socially conscious Escalade is a contradictory formula, and with the hybrid labels plastered all over the thing, it’s as if G.M. is telling the Escalade it should be ashamed of itself.

Ezra Dyer, *My Hybrid Is Bigger Than Your Hybrid*, N.Y. TIMES, Nov. 16, 2008, at AU1, AU2.

156. Micheline Maynard, *Toyota Hybrid Makes a Statement, and That Sells*, N.Y. TIMES, July 4, 2007, at A1, A11.

157. Micheline Maynard, *Buying 3rd Car As Way to Save On Price of Gas*, N.Y. TIMES, May 26, 2007, at A1, B4.

158. *See id.*

159. *See* Maynard, *Toyota*, *supra* note 156, at A1, A11.

160. *Id.*

161. *See* Gross, *supra* note 154, at 9:1.

162. *Id. see also* Jon Christensen, *My Garage Balancing Act: One Hybrid, One S.U.V.*, N.Y. TIMES, Oct. 27, 2004, at G15 (recognizing that one Prius owner went from “environmental pariah to environmental penitent to environmental snob”).

163. Koerner, *Rise of the Green Machine*, *supra* note 154, at 96, 100.

ups as high as \$5000 above the sticker price,<sup>164</sup> thereby negating any savings at the pump<sup>165</sup>—the message may quickly become, “I’m *wealthier* than you!!!”<sup>166</sup> While hybrids may never scream, “Fuck you, asshole” or “Out of my way,” as Easterbrook claims Hummers do, hybrids may eventually declare, “I’m smarter, wealthier, and (environmentally) holier than you. Step aside.”<sup>167</sup> Those without means to engage in this particular type of “green consumption,”<sup>168</sup> “conscientious consumption,”<sup>169</sup> “conspicuous earnestness,”<sup>170</sup> or “conspicuous non-consumption,”<sup>171</sup> to tweak Thorstein Veblen’s aphorism,<sup>172</sup> may eschew other, less costly ecologically friendly practices and products on the grounds that environmentalism equals elitism and that their contributions are not needed or welcome. While expensive green technologies may send unfriendly messages to those without the finances to live similar lifestyles, Williams suggests that undertaking low-impact, environmentally-benign living may, at times, prove easier for the poor and underprivileged—especially when doing so becomes an economic necessity.

For many, it is not so easy to conserve within a culture of affluence whose environmentally costly components have almost become entitlements: the S.U.V.’s; the dream homes; the remodeled kitchens with double-ovens, double-dishwashers and thermo-

164. See, e.g., Gross, *supra* note 154; *Hybrid SUVs Are Missing in Action*, NPR, Mar. 31, 2008 (discussing mark-ups of \$5000 on Ford Escape hybrids, pushing the hybrid version to \$11,000 more than the gasoline version, and eliminating any gas savings that a hybrid would offer).

165. Bob Knoll, *Hybrids Bloom in Unexpected Places*, N.Y. TIMES, Apr. 27, 2008, at SP11; see also Michelle Higgins, *With Supplies Tight, Prices Are High*, N.Y. TIMES, Aug. 24, 2008, at TR10.

166. See generally Lisa Margonelli, *China’s Next Cultural Revolution*, WIRED, Apr. 2005, at 106, 108 (“In the West, clean cars mostly have been the toys of wealthy worrywarts—too expensive to be economical . . .”); Randall Stross, *Only the Rich Can Afford It. Should Taxpayers Back It?*, N.Y. TIMES, Nov. 30, 2008, at BU3 (reporting on the Tesla Roadster, an electric car that sells for \$109,000, and describing the “guilty pleasure. . . from temporarily possessing something that shouted to the world its exclusiveness”).

167. Cf. Koerner, *Rise of the Green Machine*, *supra* note 154, at 96, 100 (“The look-at-me factor. . . is soon to fade.”).

168. Specter, *supra* note 25, at 44; see generally Monica Hesse, *Greed In the Name Of Green*, WASH. POST, Mar. 5, 2008, at C01 (“Consuming until you’re squeaky green. It feels so good. It looks so good. It feels so good to look so good, which is why conspicuousness is key.”).

169. Faidra Papavasiliou, *The Political Economy of Local Currency: Alternative Money, Alternative Development and Collective Action in an Age of Globalization*, Department of Anthropology, Emory University (Presentation of Dissertation Research delivered Apr. 25, 2008).

170. Jim Dwyer, *Bottled Water Paradox: Banned, and Required*, N.Y. TIMES, May 14, 2008, at C14.

171. See Schor, *Towards a New Politics of Consumption*, *supra* note 77, at 448, 450.

172. THORSTEIN VEBLEN, *THE THEORY OF THE LEISURE CLASS* 68-101 (Penguin 1899) (1967); see also Thorstein Veblen, *Conspicuous Consumption*, in *THE CONSUMER SOCIETY READER* 187, 187-204 (Juliet B. Schor & Douglas B. Holt, eds., The New Press 2000).

electric wine chillers; the second homes (also remodeled); the plasma television sets and surround-sound home theater systems all plugged in and ready to go. Where to begin?<sup>173</sup>

Those without such “components” and “entitlements,” for example, have begun with driving practices, and recent data from the Pew Research Center indicates that more people in rural areas and with lower incomes have scaled down on driving in response to surging gas prices.<sup>174</sup>

But scaling down on driving may not always be an option—especially where public transportation is erratic or non-existent.<sup>175</sup> In those situations, the poor are particularly vulnerable.<sup>176</sup> As Johnson explains, “[w]ealthier people have more choices than others in how and whether to adapt.”<sup>177</sup> Thus, lower-income residents may be the first to change their behavior by carpooling or using mass transit,<sup>178</sup> when economic circumstances force them to do so—and provided that these options are available. When environmental need is not coupled with economic need, or when the alternatives are simply not available for everyone, the affluent will likely transform their behavior. And it is this situation that concerns me in this essay. According to Davis, “[t]he idea of luxury has long been intertwined with—even confused with—profligate waste.”<sup>179</sup> While it is encouraging to see those with means finding ways to reduce their waste, there is cause for concern if wastelessness becomes coupled with luxury.

173. Williams, *supra* note 3, at 10; *see also* John Murawski, *Low-income families lead the way in energy efficiency*, THE HONOLULU ADVERTISER, May 27, 2008, at C2 (“For many homeowners, an energy-efficient home is the stuff of architectural magazines, outsize budgets and wishful thinking, [b]ut an increasing number of people with low incomes are living in high-efficiency homes and cutting their electricity bills in half.”).

174. Kirk Johnson, *Gas Prices Alter Habits of Many, But Far From All*, N.Y. TIMES, Aug. 9, 2006, at A1, A14 (citing Pew Research Center data); *see generally* Clifford Krauss, *Gas Prices Send Surge Of Riders To Mass Transit*, N.Y. TIMES, May 10, 2008, at A1, A15.

175. *See* Clifford Krauss, *Rural U.S. Takes Worst Hit as Gas Tops \$4 Average*, N.Y. TIMES, June 9, 2008, at A1, A15; *see generally* DALTON CONLEY, BEING BLACK, LIVING IN THE RED: RACE, WEALTH, AND SOCIAL POLICY IN AMERICA 91-92 (1999) (“Given the dispersed nature of suburban sprawl and the lack of adequate public transportation, reaching a job in the suburbs generally requires a car.”); William Neuman, *Politics Failed, But Fuel Prices Cut Congestion*, N.Y. TIMES, July 3, 2008, at A1, A17 (“Throughout the country, rising gas prices have had a broad economic impact, hitting especially hard in cities where people are more dependent on cars than in the transit-dense New York City region.”).

176. Editorial, *Pander at the Pump*, N.Y. TIMES, Apr. 28, 2006, at A24; Clifford Krauss, *Rural U.S. Takes Worst Hit as Gas Tops \$4 Average*, N.Y. TIMES, June 9, 2008, at A1, A15; RANK, *supra* note 64, at 41, 42 (stating that “[b]eing confined to a low-income neighborhood, coupled with transportation problems, often means that the poor pay more for and spend more time acquiring basic necessities,” and maintaining that “[d]oing without adequate transportation affects the ability to compete and hold a job, as much of the research on moving welfare recipients to work has found”).

177. Johnson, *supra* note 174, at A1, A14.

178. *See id.*

179. Davis, *supra* note 88, at F1, F7.

## B. LOCAL AND ORGANIC FOOD

Much has been written about the environmental and human health benefits of local and organic food.<sup>180</sup> Although, there is debate over what exactly constitutes “local” and “organic” and who should decide,<sup>181</sup> as well as which is more environmentally friendly—with some touting “local,” whose proponents are often referred to as “locavores,”<sup>182</sup> others promoting “organic,” and still others emphasizing the importance of “food miles.”<sup>183</sup> Recently, the monolithic corporation Wal-Mart has entered the organics game, generating concern on a number of grounds.<sup>184</sup> In general, I do not hold particularly favorable views of Wal-Mart because of its questionable labor practices, including its anti-union stance in the United States and

180. See, e.g., Barber, *supra* note 138, at WK13; Cindy Burke, *How to Buy Organic*, VEGETARIAN TIMES, Sept. 2008, at 52, 52-55; SAMUEL FROMARTZ, ORGANIC, INC.: NATURAL FOODS AND HOW THEY GREW (Harcourt Books 2006); Lindsey Nair, *Locavores*, THE ROANOKE TIMES, June 8, 2008, at 1, 6-7.

181. See, e.g., William Alexander, *It's Not Easy Being Organic*, N.Y. TIMES, May 27, 2006, at A23; Marian Burros, *New Rules Set For Meat Sold As Grass Fed*, N.Y. TIMES, Oct. 19, 2007, at A22; FROMARTZ, *supra* note 180; Melanie Warner, *What Is Organic? Powerful Players Want a Say*, N.Y. TIMES, Nov. 1, 2005, at C1, C4.

182. See Taylor Holliday, *Getting close to your food in Sonoma*, HONOLULU STAR BULLETIN, June 1, 2008, at G1 (defining the “locavore” movement as one in which “Earth-aware consumers go to great lengths to eat only locally grown, sustainable food from within a 100-mile radius of their home”); see also Manny Howard, *My Empire of Dirt*, NEW YORK MAG., Sept. 10, 2007, available at <http://nymag.com/restaurants/features/37273/> (last visited Nov. 21, 2009).

According to [the ethos of the locavore movement], we should all eat food produced locally, within 100 miles—some say 30—of where we live, so as to save our planet and redeem our Twinkie-gorged souls. Now that the ‘organic’ label has rapidly become as ubiquitous and essentially meaningless as the old ‘all-natural,’ the locavores have established a more sacred code, one meant to soothe our anxieties about what goes into the food we eat. *Id.*; see generally Specter, *supra* note 25, at 44 (stating that “locavore” was named the 2007 word of the year by the New Oxford American Dictionary); William Safire, *Locavorism*, N.Y. TIMES MAGAZINE, Oct. 12, 2008, at 18 (providing a brief history of the word “locavore”).

Note that some promote “local” for reasons other than the environment—such as protection against bioterrorism. See Jennifer Wilkins, *Think Globally, Eat Locally*, N.Y. TIMES, Dec. 18, 2004, at A35. Some promote organic because of the taste. See, e.g., Harold McGee, *Organic, and Tastier: The Rat's Nose Knows*, N.Y. TIMES, Oct. 3, 2007, at D5.

183. See, e.g., James E. McWilliams, *Food That Travels Well*, N.Y. TIMES, Aug. 6, 2007, at A23; see generally Pinker, *supra* note 68, § 6:32, 34-35 (stating that “[f]ood alone has become a minefield, with critics sermonizing about the size of sodas, the chemistry of fat, the freedom of chickens, the price of coffee beans, the species of fish and now the distance the food has traveled from farm to plate”); cf. Kim Severson, *A Locally Grown Diet With Fuss but No Muss*, N.Y. TIMES, July 22, 2008 (noting the popularity of the “100-mile diet” or “100-mile menu” at restaurants, but pointing out that “[t]he highest form of luxury is now growing it yourself or paying other people to grow it for you. . . . This has become fashion”) (quoting food columnist and book author Corby Kummer); Specter, *supra* note 25, at 44 (noting the popularity of the “100-Mile Diet,” but pointing out that “the relationship between food miles and their carbon footprint is not nearly as clear as it might seem”).

184. See, e.g., Editorial, *When Wal-Mart Goes Organic*, N.Y. TIMES, May 14, 2006, at WK11; Melanie Warner, *A Milk War Over More Than Price*, N.Y. TIMES, Sept. 16, 2006, at B1, B6; cf. Hesse, *supra* note 65, at C01.

abroad,<sup>185</sup> dismal working conditions at factories owned by Wal-Mart suppliers in Bangladesh, China, and elsewhere,<sup>186</sup> low wages,<sup>187</sup> poor benefits with limited health care coverage,<sup>188</sup> history of sex discrimination,<sup>189</sup> and violations of child labor laws.<sup>190</sup> Other negative factors include its

185. See, e.g., DICKER, *supra* note 142, at 5, 25, 29, 52, 90-105, 118-21, 135, 137, 163-64, 181, 212; Howard W. French, *Workers Demand Union at Wal-Mart Supplier in China*, N.Y. TIMES, Dec. 16, 2004, at A24; Steven Greenhouse, *At a Small Shop in Colorado, Wal-Mart Beats a Union Once More*, N.Y. TIMES, Feb. 26, 2005, at A7; *Wal-Mart Workers Are Finding a Voice Without a Union*, N.Y. TIMES, Sept. 3, 2005, at A14; Stephen Kinzer, *Treading Carefully, Wal-Mart Enters Labor's Turf*, N.Y. TIMES, July 6, 2004, at A12.

Note that in August 2008, Wal-Mart purportedly mobilized its store managers and department supervisors around the country to warn that if Democrats won power in the November 2008 elections, they would likely change federal labor laws to make it easier for workers to unionize companies, including Wal-Mart. Wal-Mart denied that it pressured employees to vote against Democrats out of concern that Democrats would support the Employee Free Choice Act, facilitating the unionization of workplaces. See Ann Zimmerman and Kris Maher, *Wal-Mart Warns of Democratic Win*, WALL ST. J., Aug. 1, 2008, at A1; see also Chuck Bartels and Anne D'Innocenzio, *Wal-Mart denies that it told employees how to vote*, ASSOC. PRESS, Aug. 1, 2008, available at <http://www.huffingtonpost.com/huff-wires/20080801/wal-mart-politics/> (last visited Nov. 21, 2009).

On the other hand, note that there are reported instances where Wal-Mart has been willing to deal with unions abroad. See, e.g., David Barboza, *Wal-Mart Will Unionize In All of China*, N.Y. TIMES, Aug. 10, 2006, at C4; DICKER, *supra* 138, at 158 (stating that “[a]fter sustained pressure from China’s state-run (and hopelessly ineffectual) labor union, Wal-Mart agreed to stay neutral if its workers sought representation. In Germany, the company has dealt with unions for years”).

186. DICKER, *supra* note 138, at 14, 55, 101, 107-12, 116-17, 118-21, 212; Mark Landler, *Norway Backs Its Ethics With Its Cash*, N.Y. TIMES, May 4, 2007, at C1, C4; see generally BILL QUINN, *HOW WAL-MART IS DESTROYING AMERICA AND THE WORLD AND WHAT YOU CAN DO ABOUT IT* (Ten Speed Press 2000).

187. See, e.g., DICKER, *supra* note 138, at 1, 14, 28-31, 62, 66, 80, 113, 135, 185, 199, 212; Steven Greenhouse, *Foiled Once in New York, Wal-Mart Turns on Charm*, N.Y. TIMES, Aug. 22, 2005, at A13; Stephen Kinzer, *Wal-Mart's Big-City Plans Stall Again*, N.Y. TIMES, May 6, 2004, at A16; Paul Krugman, *Big Box Balderdash*, N.Y. TIMES, Dec. 12, 2005, at A29; cf. Pankaj Ghemawat and Ken A. Mark, *The Price is Right*, N.Y. TIMES, Aug. 3, 2005, at A23; John Tierney, *The Good Goliath*, N.Y. TIMES, Nov. 29, 2005, at A31; John Tierney, *Shopping For A Nobel*, N.Y. TIMES, Oct. 17, 2006, at A23.

In addition to its low wages, Wal-Mart also affects the wages of other businesses in the towns that it infiltrates. According to Dicker, “when Wal-Mart bursts into town, the competition—if any is left—has to do something to compete, and often that something is slashing wages.” DICKER, *supra* 142, at 204. In addition, “Because Wal-Mart fails to pay sufficient wages, U.S. taxpayers are forced to pick up the tab. In this sense, Wal-Mart’s profits are not made only on the backs of its employees—but on the [back] of every U.S. taxpayer.” *Id.* at 208 (quoting Representative George Miller of California).

188. See, e.g., DICKER, *supra* note 138, at 1, 14, 55, 62, 83-88, 163-64, 212; Steven Greenhouse, *How Costco Became the Anti-Wal-Mart*, N.Y. TIMES, July 17, 2005, §3:1, 8; Kinzer, *Wal-Mart's Big-City Plans*, *supra* note 187, at A16; cf. Tierney, *The Good Goliath*, *supra* note 187, at A31.

189. See, e.g., DICKER, *supra* note 138, at 29, 55, 106-07, 157; LIZA FEATHERSTONE, *SELLING WOMEN SHORT: THE LANDMARK BATTLE FOR WORKERS' RIGHTS AT WAL-MART* (2004); Jonathan D. Glater, *Attention Wal-Mart Plaintiffs: Hurdles Ahead*, N.Y. TIMES, June 27, 2004, at BU5; see generally QUINN, *supra* note 186; <http://walmartclass.com> (the progress of the *Dukes vs. Wal-Mart* class-action lawsuit).

190. DICKER, *supra* note 138, at 81, 101, 107-12, 119; Steven Greenhouse, *Wal-Mart Agrees to Pay Fine in Child Labor Cases*, N.Y. TIMES, Feb. 12, 2005, at A9; Constance L. Hays, *Wal-*

displacement of small, local businesses;<sup>191</sup> poor land use practices, contributions to sprawl, and other adverse impacts on the environment;<sup>192</sup> cultural insensitivity;<sup>193</sup> “cultural gate keeping” practices—such as censoring racy music and magazines that the company feels do not reflect the values of its customers,<sup>194</sup>—and the aesthetically unappealing “Supercenters.”<sup>195</sup> But what is the matter with Wal-Mart selling organic food? Is it that Wal-Mart might not purchase from small, local, organic farmers, and will instead exert its market influence to “speed up the rate at which organic farming comes to resemble conventional farming in scale, mechanization, processing and transportation . . . [,] the very antithesis of what organic should be?”<sup>196</sup> Is it that Wal-Mart is “diluting the principles of organic agriculture and delivering customers. . . substandard prod-uct[s]?”<sup>197</sup> Are the animals that Wal-Mart relies upon for its organic milk mistreated or

*Mart Struggles To Cope With Change*, N.Y. TIMES, June 30, 2004, at C1, C2; Stephanie Rosenbloom, *Wal-Mart To Toughen Standards*, N.Y. TIMES, Oct. 22, 2008, at B1, B2.

191. Jon Bowermaster, *When Wal-Mart Comes To Town*, N.Y. TIMES MAG., Apr. 2, 1989; DICKER, *supra* note 138, at 5, 14, 25, 59-60, 113, 114-15, 132-34, 135, 144, 172-74, 197, 210, 212; Steven Greenhouse, *To Cheers of Opponents, Plans for a City Wal-Mart Are Dropped*, N.Y. TIMES, Feb. 24, 2005, at A22; *see generally* STACY MITCHELL, *THE HOMETOWN ADVANTAGE: HOW TO DEFEND YOUR MAIN STREET AGAINST CHAIN STORES AND WHY IT MATTERS* (Institute for Local Self-Reliance, 2000); QUINN, *supra* note 186; *cf.* John Tierney, *Big Store, Little Town*, N.Y. TIMES, Nov. 26, 2005, at A31.

192. *See, e.g.*, DICKER, *supra* note 138, at 6, 14, 27, 45, 78, 188-95, 196; Andrew Martin, *Preserving a Forest and a Philosophy*, N.Y. TIMES, Mar. 1, 2008, at B1, B4; AL NORMAN, *THE CASE AGAINST WAL-MART 37-42* (Raphael Marketing 2004); *see generally* AL NORMAN, *SLAM-DUNKING WAL-MART: HOW YOU CAN STOP SUPERSTORE SPRAWL IN YOUR HOMETOWN* (Raphael Marketing 1999).

Note that while Wal-Mart’s contributions to sprawl and the effects of its Supercenters on local economies remain problematic, some have begun to laud the company for its efforts to improve its fuel efficiency, reduce its packaging, and sell more energy-efficient compact fluorescent light-bulbs, as well as its attempts to encourage its suppliers to reduce their carbon footprints. *See* Deutsch, *For Suppliers*, *supra* note 79, at H1, H11 (reporting that in September 2007, Wal-Mart announced a pilot program with suppliers of seven items—DVDs, toothpaste, soap, milk, beer, vacuum cleaners, and soda—to measure and reduce the amount of energy used in making and distributing them); Reed McManus, *Big Debate Over the Big Box*, SIERRA, Jan./Feb. 2008, at 32-33; *see also* Maloney, *Pay for the Power*, *supra* note 79, at H1, H6 (noting that Wal-Mart has begun turning to solar power).

193. DICKER, *supra* note 138, at 23, 139, 176 (noting that Walmart opened a store on the site of an ancient tribal burial ground on the Hawaiian island of Maui and had plans to plop a Supercenter at San Juan Teotihuacán, northeast of Mexico City—a Supercenter that would be visible from the top of nearby ancient pyramids).

194. *Id.* at 136, 147-48, 152-53.

195. *Id.* at 9-10, 175, 187 (“[A Wal-Mart store is] just a big, hulking box of concrete masonry unit bricks—cheapest construction material this side of dried dung—structured with steel frames and painted blue and gray with a red racing stripe thrown in for no apparent reason. The cookie-cutter design is square and blunt and ugly enough to make the average inner-city public housing project seem fit for a Vermont ski town.”).

196. Editorial, *When Wal-Mart Goes Organic*, N.Y. TIMES, May 14, 2006, at WK11.

197. Warner, *A Milk War*, *supra* note 184, at B1, B6.

overtaxed?<sup>198</sup> Or is something else afoot here? Do people genuinely like the taste of organic foods or their positive environmental and human health impacts? Or is this a case of “pretentious snobbery?”<sup>199</sup> As John Dicker writes in *The United States of Wal-Mart*, “many Americans can’t afford to shop their conscience.”<sup>200</sup> Do those who purchase organic foods secretly and perversely like the high prices of such items?<sup>201</sup> Do some prefer “organics” because they are regarded as “the private school of food?”<sup>202</sup> Does a shopping cart full of organic items or shopping bags from Whole Foods or Wild Oats somehow convey membership in a certain cadre or class? Do such organic-fanatics somehow fear that the environmental, health, and socio-cultural benefits derived from purchasing organic foods will become diluted if more people have access to these items?

Wal-Mart offers many low-cost items,<sup>203</sup> leading one commentator to laud the corporation as “one of the most successful antipoverty programs in America.”<sup>204</sup> Notwithstanding my other concerns about Wal-Mart, if Wal-

198. *Id.*

199. DICKER, *supra* note 138, at 201.

200. *Id.* at 188; *see generally* John T. Edge, *Protein Pills*, N.Y. TIMES BOOK REVIEW, Oct. 14, 2007, at 17 (reviewing KEN ALBALA, *BEANS: A HISTORY* (2007)) (noting the historical link between food and class, and stating that “[b]ecause beans are cheap to raise and offer a protein payoff that is comparable to meat’s, poor people have traditionally eaten them. The plants that bear beans don’t appeal to the aspirational bourgeoisie. Beans are, in the developed world, markers of a hand-to-mouth lifestyle best left behind.”).

201. Andrew Martin & Kim Severson, *Sticker Shock In the Organic Aisles*, N.Y. TIMES, Apr. 18, 2008, at C1, C4; Naughton, *supra* note 149, at 48 (noting that Whole Foods has been dubbed “Whole Paycheck” by some shoppers); *but see* Andrew Martin, *Whole Foods Looks for a Fresh Image in Lean Times*, N.Y. TIMES, Aug. 2, 2008, at C1, C6 (describing Whole Foods’ attempts to overcome the “Whole Paycheck” moniker, and reporting that “consumer interest in organic food appears to be leveling off after several years of double-digit growth”).

202. Naughton, *supra* note 149, at 48 (quoting Ken Cook, president of the Environmental Working Group); *see generally* Schor, *Towards a New Politics of Consumption*, *supra* note 77, at 461 (“[C]onsumers appear willing to pay a little more for products when they know they have been produced responsibly.”).

203. Michael Barbaro, *Is Wal-Mart Too Cheap For Its Own Good?*, N.Y. TIMES, May 30, 2008, at C1, C4; Ghemawat & Mark, *supra* note 187, at A23; Stephanie Rosenbloom & Andrew Martin, *Thriftness On Special In Aisle 5*, N.Y. TIMES, Oct. 14, 2008, at B1, B9; Tierney, *The Good Goliath*, *supra* note 187, at A31.

204. Tierney, *The Good Goliath*, *supra* note 187, at A31; *see also* Tierney, *Big Store, Little Town*, *supra* note 191, at A31; Tierney, *Shopping For A Nobel*, *supra* note 187, at A23; DICKER, *supra* note 138, at 140 (noting the claim of Wal-Mart “as a sort of humanitarian relief agency”). According to Dicker, there are good reasons for shopping at Wal-Mart:

especially in economically disadvantaged areas where no other retail chains dare to tread, and where the need for cheap, healthy food and staple goods is dire. . . . Conservatives have argued that the building of Wal-Marts and Supercenters in economically depressed areas is *the solution* for urban blight. In a column on the alternative news website, “The Raw Story,” columnist Brian Holley wonders if the Wal-Marts that are popping up in urban areas, where lower-income families seek out low-price goods, are like the pox-infested blankets freshly landed Europeans gave to Native Americans. Great in the short term; devastating over time. The very concept of ‘sprawl’ evokes visions of Wal-Mart as the typical Supercenter requires a twenty-



Mart can show that green products can be bought on a budget and can get more people to purchase organic items,<sup>205</sup> that is a good thing from an environmental and human health perspective—assuming that its items are genuinely organic and that its purchases from larger organic farms do not cause small organic farmers to go under.

While a revelation that Wal-Mart, or any other corporation's organic-labeled foods, contain antibiotics, chemicals, hormones, or pesticides, or that the animals involved in their production suffered cruel treatment, would demand action and reparation, such quibbling over Wal-Mart's entrance into the organics market is shameful. If concern for the environment and human health is really at the core of organic purists, then why not focus attention on "the grocery gap,"<sup>206</sup> better known as urban "food deserts"<sup>207</sup>—whole neighborhoods and communities where the only food shopping options are "fringe" retailers like convenience stores, liquor stores, gas stations, drug stores, small bodegas, and fast food restaurants? According to an editorial in *The New York Times*,

New Yorkers gained 10 million pounds over the last two years, disproportionately in poor and minority neighborhoods, where many of the 10 million chain-restaurant meals from McDonald's, Burger King, KFC, Domino's, Pizza Hut, and Taco Bell are sold

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plus-acre lot—space for a thousand parking spots—and generates an estimated 7,000 to 10,000 car trips per day.

DICKER, *supra* note 138, at 5, 27 (emphasis added).

205. Stuart Elliott, *Creative Spots, Courtesy of a Stalled Economy*, N.Y. TIMES, Apr. 11, 2008, at C1, C4.

206. DICKER, *supra* note 142, at 185 (defining the grocery gap as "a pervasive lack of quality, affordable food in low-income communities").

207. See, e.g., Associated Press, *Residents do without in America's 'Food Deserts'* available at <http://www.msnbc.msn.com/id/5353901/> (last visited Nov. 21, 2009); Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Nov. 21, 2009); Steven Cummins & Sally Macintyre, "Food deserts"—Evidence and Assumption in Health Policy Making, 325 BRITISH MED. J. 436-38 (Aug. 24, 2002); Steven Cummins & Sally Macintyre, *The Location of Food Stores in Urban Areas: A Case Study in Glasgow*, 101(7) BRITISH FOOD J. 545 (1999); *Study: Black Neighborhood Stores Have Poor Food Choices*, USA TODAY, Aug. 5, 2003, at D6.

Note that the problem of "food deserts"—"neighborhood[s] in which residents typically must travel twice as far to reach the closest supermarket or other mainstream grocer as people in better appointed neighborhoods"—is not confined to blighted urban areas. Erica Barnett, *How to Fertilize Urban Food Deserts*, WORLD CHANGING, <http://www.worldchanging.com/archives/007372.html> (last visited Nov. 21, 2009) ("In the Western states, 44 percent of the average county's population has poor access to grocery stores; in the Midwest, 34 percent; in the South, 24 percent; in the Northeast, just 10 percent."); see also Associated Press, *Residents do without in America's 'Food Deserts'*, available at <http://www.msnbc.msn.com/id/5353901/> (last visited Nov. 21, 2009).

every month. Those neighborhoods are also where diabetes, hypertension and heart disease are at epidemic levels.<sup>208</sup>

Such findings are not limited to New York. A 2003 study by researchers at the University of Southern California, the University of California-Los Angeles, and the local health advocacy group, Community Health Councils, Inc., revealed that healthful food products were significantly less available in African American communities in South Los Angeles, Inglewood, and North Long Beach, than in contrasting wealthier areas with fewer African Americans, making healthy lifestyles associated with low chronic disease risk more difficult to achieve.<sup>209</sup> And, according to a 2001 study from Detroit, the meat and produce are of inferior quality in the small neighborhood stores in the poorer areas of the city, yet the prices exceed those paid by people who shop in the supermarkets in the suburbs.<sup>210</sup> This leads Gregg Krupa, who reported on the Detroit study, to conclude that “[t]he high price of groceries is one factor that keeps the poor impoverished.”<sup>211</sup> Should this not raise the hackles of those seeking to live more carefully and conscientiously?<sup>212</sup> Should not environmentalists who es-

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208. Editorial, *No More Dining in the Dark*, N.Y. TIMES, Apr. 21, 2008, at A24. See also Nanci Hellmich, *Study: Black neighborhood stores have poor food choices; White areas, in comparison, have much healthier fare*, USA TODAY, Aug. 5, 2003, at D6 (“Grocery stores in lower-income black neighborhoods offer fewer healthful foods than stores in more affluent, mostly white communities, making it more difficult for poorer people to maintain a normal weight and live a healthy life.”); Tracie McMillan, *The Action Diet: The Food Justice Movement Aims to Change More Than What New York Kids Eat*, CITY LIMITS, July/Aug. 2004, available at <http://www.citylimits.org/content/articles/articleView.cfm?articlenumber=1156> (last visited Nov. 21, 2009) (reviewing the barriers to the food justice movement in New York including fast food, limited supermarkets, and limited physical activity). Such neighborhoods also often suffer from high rates of crime. According to one report, integrating supermarkets into urban renewal will help address crime and the fear of crime because of the presence of twenty-four hour lighting. Erik Eckholm, *In Market Hopes for Health and Urban Renewal*, N.Y. TIMES, May 25, 2007, A12.

209. David C. Sloane, et al., *Improving the Nutritional Resource Environment for Healthy Living Through Community-based Participatory Research*, 18 J. GEN. INTERN. MED. 568, 568-75 (July 2003); see also Hellmich, *supra* note 208, at D6.

210. Gregg Krupa, *Groceries Cost More for Poor: Dearth of Inner-City Supermarkets Limits Choices*, THE DETROIT NEWS, Aug. 21, 2001, available at <http://www.detnews.com/specialreports/2001/poverty/821lead/821lead.htm> (last visited July 12, 2008).

211. *Id.* Krupa cites a study by the U.S. Department of Agriculture, which has found that the smaller food stores in low-income, urban neighborhoods charge an average of *ten percent* more than supermarkets, but adds that in some instances, ground beef and potatoes were twenty-five percent more in urban Detroit than suburban Detroit and that the cheapest drumsticks and thighs at the most accessible supermarket to low-income individuals in urban Detroit were more than 100% more expensive than the cheapest brand at one of the suburban supermarkets. *Id.*

212. Devoted environmentalists who begin to consider food availability and obesity might be pleasantly surprised that their efforts can positively affect important environmental problems. See Ian Robert, *Say no to global guzzling*, 194 NEW SCIENTIST June 30, 2007, at 21 (reporting that “obese people are having a direct impact on the climate. This is happening through their lifestyles and the amount and type of food they eat, and the worse the obesity epidemic gets the greater its impact on global warming. . . . Pandemic obesity is an energy vortex. It is time to treat it as the potential global environmental catastrophe that it is.”).

pouse the benefits of local or organic produce support initiatives to bring grocery stores with real healthful food choices to such areas?<sup>213</sup> Should not such environmentalists encourage and advance the efforts of organizations like the Project for Public Spaces, which provides grants to help communities start and sustain neighborhood food markets,<sup>214</sup> or Added Value, a non-profit organization in the Red Hook section of Brooklyn, New York, that has turned a dilapidated playground into a 2.75 acre urban farm and employs local teens from low-income families to farm and produce healthful food to sell at its farmers' markets?<sup>215</sup>

Historian W. Andrew Achenbaum once remarked that "Opposition to 'x' does not invariably lead to support for 'y'."<sup>216</sup> I am not suggesting that those who purchase local and organic foods suddenly stop caring about whether their milk comes from happy, healthy cows that have roamed green pastures. I am also not suggesting that they abandon any of the other environmental issues of concern to them, such as pollution issues with implications for human health, nature preservation issues, resource conservation issues, global environmental issues, or neighborhood environmental issues. People have every right to be concerned about where their fruits and vegetables come from and the conditions under which their meat and poultry were raised, and to act in accordance with their beliefs.<sup>217</sup> People

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213. Hellmich, *supra* note 208, at D6 (noting that in black neighborhoods, grocery stores contained less variety of produce and produce of poorer quality than in mostly white communities); Christina Hoag, *Los Angeles Wants to Take Bite out of Fast Food*, ASSOC. PRESS, July 29, 2008, available at <http://www.newsvine.com/> (last visited July 29, 2008) ("South LA residents lack healthy food options, including grocery stores, fresh produce markets—and full-service restaurants with wait staff and food prepared to order.").

214. See Barnett, *supra* note 207; Benjamin Fried, *For the Health of It*, MAKING PLACES, Oct. 2005, available at [http://www.pps.org/info/newsletter/october2005/markets\\_health](http://www.pps.org/info/newsletter/october2005/markets_health).

215. In addition to its youth employment and internship opportunities and its farmers' markets and community supported agriculture (CSA), where neighborhood residents can obtain high quality vegetables from the Red Hook Community Farm, as well as meat and dairy products from regional farmers, Added Value partners with local restaurants to provide them with local fruit and produce, and hosts educational programs for school children to learn about social, economic, and environmental issues related to urban agriculture. Diane Cardwell, *No Red Barn, but That's a Farm in Red Hook; Two Acres, No Mule, but an Agricultural Education for Urban Teenagers*, N.Y. TIMES, Aug. 20, 2003, at B1; Sandra Endo, *Added Value Founders Bring Red Hook Residents Together With Green Thumb*, NY1, Nov. 27, 2004, available at <http://www.ny1.com/>; Gillian M. Kalson, *A Farm Grows in Brooklyn*, THE INDEPENDENT, June 8, 2007, at 20; Jill Slater, *A Farm in the Asphalt Heart of Brooklyn*, SEASONALCHEF.COM, Oct. 2005, <http://www.seasonalchef.com/farmredhook.htm> (last visited Nov. 21, 2009).

216. W. Andrew Achenbaum, *The Formative Years of Social Security: A Test Case of the Piven and Cloward Thesis*, in SOCIAL WELFARE OR SOCIAL CONTROL?: SOME HISTORICAL REFLECTIONS ON Regulating the Poor 67, 76 (Walter I. Trattner, ed., 1983).

217. Schor, *Towards a New Politics of Consumption*, *supra* note 77, at 452. The current consumer boom rests on growth in incomes, wealth, and credit. But it also rests on something more intangible: social attitudes toward consumer decision-making and choices. Ours is an ideology of non-interference—the view that one should be able to buy what one likes, where one likes, and as much as one likes, with nary a glance from the government, neighbors, ministers, or

should take measures to ensure that their fresh vegetables are not really Frankenfruits injected with more chemicals than major league baseball players. But when swaths of major metropolitan areas are without access to fresh fruits and vegetables (organic or not), and when the ability to engage in green living is a reflection of the size of one's wallet, then we must contemplate whether eco-conscious activities and practices have become the domain of the privileged, further segregating the haves from the have-nots. In such situations, we must seriously assess whether the media reports of an environmental awakening and commitment to a green society really reflect the right kind and color of green.

#### IV. ANALYTICAL TOOLS FOR ASSESSING ENVIRONMENTAL ATTITUDES

As discussed in Part II, the suggestion in this essay of elitism on the part of some environmentalists is not new. Here, however, the claim is not that various environmental reforms distribute benefits to one socioeconomic group or class at the expense of another (ideological elitism) or that environmental reforms have regressive distributional impacts (impact elitism). Nor is the claim in this essay one of exclusion from a group, organization, or movement (compositional elitism). Rather, the concern is with exclusion from an attitude or type of behavior.

Being green is becoming hip, and with anything *au courant*, there is a desire to stand out—and with it, an urge to exclude, rather than embrace and include. I worry that the recent heightened environmental consciousness and concern will morph into a race to be green, alienating those without the economic means or cultural capital to purchase the latest, greatest, eco-friendly items or engage in the coolest green practices. In *One Nation, Underprivileged: Why American Poverty Affects Us All*, sociologist Mark R. Rank argues that:

[w]hat was once considered appropriate and in fashion, with time and evidence, can become antiquated. What was once considered just can one day be reviled as unjust. What was once considered truth can eventually be recognized as myth. Thus, while we should not underestimate the staying power of the old paradigm, neither should we be immobilized by its apparent strength.<sup>218</sup>

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political parties. Consumption is perhaps the clearest example of an individual behavior which our society takes to be almost wholly personal, completely outside the purview of social concern and policy. The consumer is king. And queen. *Id.*

218. RANK, *supra* note 64, at 189-90; see also FRED DAVIS, FASHION, CULTURE, AND IDENTITY, 103-120 (1992) (describing how changes in fashion are often ephemeral); John Mooallem, *The Afterlife of Cellphones*, N.Y. TIMES MAGAZINE, Jan. 13, 2008, §6:38, 43 (“by its

I am not hoping that greener technologies and eco-friendly activities suddenly become unpopular. People should engage in more environment-tally benign practices to reduce their carbon footprints, and there should be calls for greener technologies, as well as better technological policy to facilitate research and development in low-carbon technologies.<sup>219</sup> Rather, what should not transpire—or what should become unfashionable and outdated—is the idea that eco-friendly practices are somehow available only to a specific class and the perception that green living is the sole province of a particular group of individuals. To quote Professor Juliet B. Schor, “How about making ‘access,’ rather than exclusivity, cool . . . ?”<sup>220</sup> This may be easier said than done and more research is needed to understand the nature and nuances of environmental elitism, the relationship of race and class to consumption with respect to the environment, and to assess the assertions made in this essay. Part of the challenge may also lie in addressing attitudes and perspectives that transcend the peculiarities of the environment and permeate society more broadly, such as skepticism on the part of marginalized groups that they have the ability to affect change<sup>221</sup> and the prevailing sense that one has “no right expecting civic spiritedness from those whose experience of community has mostly been that of victims.”<sup>222</sup>

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nature, fashion is not eternal”); *see generally* David Brooks, *Thoroughly Modern Do-Gooders*, N.Y. TIMES, Mar. 21, 2008, at A23 (“Fashions in goodness change, just like fashions in anything else. . .”).

219. *See* Roger Pielke, Jr., et al., *Dangerous Assumptions*, 452 (7187) NATURE 531, 531-32 (Apr. 3, 2008); *see also* Andrew C. Revkin, *A Shift in the Debate Over Global Warming*, N.Y. TIMES, Apr. 6, 2008, at WK3.

220. Schor, *Towards a New Politics of Consumption*, *supra* note 77, at 461.

221. *See* Mohai, *Public Concern*, *supra* note 110, at 823 (discussing the concept of personal efficacy—an “individual’s perceptions of his or her abilities to affect his or her social and political movement,” and noting that “high-efficacy individuals are more likely to become politically active than low-efficacy individuals”); JAMES C. SCOTT, DOMINATION AND THE ARTS OF RESISTANCE: HIDDEN TRANSCRIPTS 74 (1990).

By persuading underclasses that their position, their life-chances, their tribulations are unalterable and inevitable, such a limited hegemony can produce the behavioral results of consent without necessarily changing people’s values. Convinced that nothing can possibly be done to improve their situation and that it will always remain so, it is even conceivable that idle criticisms and hopeless aspirations would be eventually extinguished. . . . ‘When people feel that they cannot do much about the main elements of their situation, feel it not necessarily with despair or disappointment or resentment but simply as a fact of life, they adopt attitudes toward that situation which allow them to have a livable life without a constant and pressing sense of the larger situation.

*Id.* (quoting RICHARD HOGGART, THE USES OF LITERACY: ASPECTS OF WORKING CLASS LIFE 77-78 (Chatto and Windus 1954)).

222. SCOTT, *supra* note 221, at 43 n.49 (discussing Alice Walker’s speech at a nuclear disarmament rally explaining why many blacks were not much interested in signing nuclear freeze petitions—because “[t]heir ‘hope for revenge’ made them look on nuclear destruction brought about by a white-ruled world with equanimity if not malevolent pleasure”).

But steps can be taken in the right direction by altering the range and scope of eco-friendly activities and technologies that are promoted and publicized.<sup>223</sup> For example, rather than touting the Chevrolet Tahoe Hybrid, which yields a gain of four to five miles per gallon, but is \$10,000 more expensive than an comparably equipped gasoline model,<sup>224</sup> why not commend the replacement of 180,000 energy-guzzling refrigerators in New York City public housing projects with new ones that use a quarter of the power of old ones?<sup>225</sup> Why not extol groups such as Habitat for Humanity, who build low-income houses equipped with features such as efficient appliances, heat-blocking windows, high-grade ducts, and tightly installed insulation without gaps or breaks, as well as the low-income families living in such houses, who have become “pioneers in energy efficiency?”<sup>226</sup> Why not laud public housing projects and low-income homes as paradigms of energy savings and something to be emulated, which might simultaneously help to transform the perspective of the poor as perpetually mooching off of government coffers?<sup>227</sup> Instead of installing a solar-powered water heater or a windmill at one’s place in the country or paying a premium of fifteen percent to install kitchens featuring “sustainably harvested” cork floors, recycled glass tiles, and sturdy countertops from recycled paper, why not dispense with the second home entirely—and the carbon footprint of maintaining and traveling to and from it—and focus one’s efforts on one’s primary residence?<sup>228</sup>

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223. See generally DOUGLAS S. MASSEY, *CATEGORICALLY UNEQUAL: THE AMERICAN STRATIFICATION SYSTEM 208-09* (2007) (“As the poor urbanize and concentrate in post-industrial cities, however, they acquire new opportunities to observe the lifestyles of the privileged, not only through personal observation but through the media. As a result, the concentration of affluence and poverty in cities increases the poor’s sense of relative deprivation, which, in turn, is associated with strong feelings of grievance toward the affluent.”).

224. Knoll, *supra* note 165, at SP11.

225. Anthony DePalma, *It Never Sleeps, But it Douses the Lights*, N.Y. TIMES, Dec. 11, 2005, at 39.

226. Murawski, *supra* note 173, at C2 (noting that in North Carolina, eighty percent of low-income houses built by Habitat for Humanity are high-efficiency homes).

227. See RANK, *supra* note 64, at 36-37 (condemning the depiction of welfare recipients as “lazy, Cadillac-driving, welfare freeloader(s), or worse, [as] alligators or wolves [waiting and expecting to be fed]”); see also LAWRENCE ROSEN, *LAW AS CULTURE: AN INVITATION 133* (2006) (noting the perspective of some politicians that welfare serves not as a “safety net,” but as a “hammock”—connoting luxury and laziness); but see generally CHARLES MURRAY, *LOSING GROUND: AMERICAN SOCIAL POLICY 1950-1980* (1984) (arguing that the welfare system should be abolished because it has destroyed poor peoples’ incentives to build strong families and work histories).

228. See Tierney, *Are We Ready*, *supra* note 74, at D1, D4; Williams, *Greening Up*, *supra* note 3, at 10; see also Tuff, *supra* note 3, at D1, D5 (“The greenest second home is one that is never built.”) (quoting Richard Faesy, project manager for the Vermont Energy Investment Corporation).

According to Tierney, there is a crucial difference between “effective actions” and “ritual displays”<sup>229</sup> or what the controversial Danish author Bjorn Lomborg refers to as “do good” and “feel good” strategies.<sup>230</sup> Recycling glass bottles and avoiding plastic bags at the grocery store (ritual displays or feel good activities) do not offset the emissions from one’s car used to make the trip to the store<sup>231</sup>—a trip that could be made by walking or using public transportation, both of which constitute effective, do good practices. The feel good activity of switching to a Prius or a hybrid SUV will not undo the effects of frequent air travel. Because a couple of international trips can be worse for your carbon footprint than driving a Hummer for a year,<sup>232</sup> an effective action would be to reduce or eliminate one’s flying—and a truly effective action would involve both changes in one’s choice of vehicle and one’s reliance on private transportation, as well as one’s intercontinental travel for business or leisure. On a broader level, emissions legislation frequently constitutes a feel good strategy because it offers politicians the opportunity to utter “greener than thou”<sup>233</sup> sound-bites and make promises they themselves do not have to keep.<sup>234</sup> Limiting coastal development and expanding wetlands—far less sexy initiatives—as well as planting more greenery in urban areas and painting city buildings light

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229. Tierney, *supra* note 228, at D1, D2; *see also* Alex Williams, *Jolly Green, With an Agenda*, N.Y. TIMES, Nov. 25, 2007, at ST1, ST2 (“Environmentalists who scold their families are simply making ‘ritualistic gestures that won’t solve the problem.’”). The association of “ritual” to consumption is not new. As economist Victor Lebow wrote in the 1950s: “Our enormously productive economy demands that we make consumption our way of life, that we convert the buying and use of goods into *rituals*, that we seek our spiritual satisfaction . . . in consumption. . . . We need things consumed, burned up, replaced and discarded at an ever-accelerating rate.” *See Hesse, Greed In the Name Of Green, supra* note 65, at C01.

230. John Tierney, *‘Feel Good’ vs. ‘Do Good’ on Climate*, N.Y. TIMES, Sept. 11, 2007, at D1, D4.

231. BJORN LOMBORG, *COOL IT: THE SKEPTICAL ENVIRONMENTALIST’S GUIDE TO GLOBAL WARMING* 161-64 (Alfred A. Knopf 2008); Tierney, *Are We Ready, supra* note 74, at D1, D4. Lomborg has been labeled an “anti-environmentalist” and his statements on species loss and global warming have been referred to as “dangerous and misleading.” The Biotic Baking Brigade, Eds., *Bjorn Lomborg Pied for Spewing Anti-Environmental Sentiments*, in *PIE ANY MEANS NECESSARY* 56 (AK Press 2004). While I share the concern that some have about Lomborg’s downplaying and understating current environmental problems, his distinction between “do good” and “feel good” strategies is insightful and timely, and provides a needed heuristic tool for analyzing environmental behavior.

232. Tierney, *supra* note 228, at D1, D4.

233. *See* TERRY L. ANDERSON & LAURA E. HUGGINS, *GREENER THAN THOU: ARE YOU REALLY AN ENVIRONMENTALIST* (Hoover Institution Press 2008) (2009); *see generally* Suzi Clark, Book Review, 70(2) *INTERNATIONAL AFFAIRS* 337, 339 (Apr. 1994) (reviewing VANDANA SHIVA, *MONOCULTURES OF THE MIND: PERSPECTIVES ON BIODIVERSITY AND BIOTECHNOLOGY* (1993)).

234. Tierney, *supra* note 230, at D1, D4; *see generally* Marianne Lavelle, *Can America Use Less Energy?*, U.S. NEWS & WORLD REPORT, Apr. 17, 2008, *available at* <http://www.usnews.com/> (last visited Nov. 21, 2009) (“Leadership will be essential, but the politics of sacrifice doesn’t play well. Individuals must take the first steps.”).

colors, could reduce the urban-heat-island effect—a do-good effective action.<sup>235</sup>

Admittedly, the distinctions between effective actions and ritual displays or between do good and feel good strategies are not always clear. Indeed, the concepts of effective actions-ritual displays and do good-feel good strategies function more as analytical tools than discrete categories. But ritual displays can and often are indicia of privileged status. Effective actions frequently are not and certainly need not be. The challenge is to make such effective actions and do good strategies feel good for everyone, irrespective of race and class.

## V. CONCLUSION

Using the examples of vehicle choice and food choice, this essay submits that certain actions, although performed in the name of green consciousness and thus seemingly noble and well-intentioned, may serve to separate and segregate, rather than include and incorporate individuals into more environmentally responsible living. To help prevent this phenomenon from occurring—or from further occurring—this essay proposes altering the range and scope of eco-friendly activities and technologies that are promoted and publicized so that “effective actions”—“do good” strategies and practices—become that which gain recognition and are imitated, rather than “ritual displays” or “feel good” undertakings and routines.

In making this suggestion, I would like to clarify three points that I have not made. First, consumption practices reflect and help maintain structures of power and inequality<sup>236</sup>—“[d]ominant status groups have regularly defined popular culture in ways that fit their own interests and have worked to render harmless subordinate status-group cultures”<sup>237</sup>—that “[i]ndividuals use cultural taste to reinforce symbolic boundaries between

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235. See LOMBORG, *supra* note 231, at 161-64; Tierney, *supra* note 228, at D1, D4; see generally Richard L. Ottinger, & Mindy Jayne, *Global Climate Change Kyoto Protocol Implementation: Legal Frameworks for Implementing Clean Energy Solutions*, 18 PACE ENVTL. L. REV. 19, 27 (2000) (citing A. Rosenfeld et al., *Painting the Town White Blue and Green*, M.I.T. TECH. REV., Feb.-Mar. 1997, at 56).

236. Pierre Bourdieu, *The Aesthetic Sense as the Sense of Distinction* (1979; trans. 1984), in THE CONSUMER SOCIETY READER 205, 205-11 (Juliet B. Schor & Douglas B. Holt, eds., 2000); see generally David B. Grusky, *The Past, Present, and Future of Social Inequality*, in SOCIAL STRATIFICATION: CLASS, RACE, AND GENDER IN SOCIOLOGICAL PERSPECTIVE 3, 26 (David B. Grusky, ed., Cornell University Press 2001) (discussing recent interest in the effects of social class on tastes for popular or high culture and the role of these tastes in establishing or reinforcing inter-class boundaries).

237. Richard A. Peterson & Roger M. Kern, *Changing Highbrow Taste: From Snob to Omnivore*, 61(5) AMERICAN SOCIOLOGICAL REVIEW 900, 906 (Oct. 1996) (citing RICHARD SENNETT AND JONATHAN COBB, *THE HIDDEN INJURIES OF CLASS* (Knopf 1972) and MORAG SHIACH, *DISCOURSE ON POPULAR CULTURE* (Stanford University Press 1989)).



themselves and categories of people they dislike.”<sup>238</sup> While I strongly suspect that certain consumption patterns reflecting green attitudes, behaviors, and tastes may be used to reinforce symbolic boundaries, I do not claim in this essay that this phenomena is necessarily occurring. This may already be happening or this may transpire in the future if certain green behaviors continue to be treated as the province of a certain group. More research is needed in this regard. But we must be wary of the ways in which consumption practices are linked to and perpetuate structures of power and inequality, and we must not assume that environmental benevolence or do-goodism is immune to such processes.

Second, in questioning aspects of what one might term, “environmental altruism” or “environmental benevolence,” I am not attacking the concepts of altruism and benevolence as a whole. In the mid-1970s, scholars such as social historian David Rothman challenged the very idea of “doing good.”<sup>239</sup> As historian Walter I. Trattner describes, many individuals, such as Rothman and his colleagues, vexed and frustrated by the perceived ineffectiveness of the nation’s social welfare institutions and programs, contested the idealistic and moralistic interpretation of these programs and the reasons for their implementation:

The nation’s social welfare institutions and programs, even the concept of benevolence itself, came under intense scrutiny and attack. Altruistic rationales were not very marketable in the age of cynicism—especially in light of the overall failure of the ‘war on poverty’ and the persistence of so much hardship poverty, destitution and dependency.<sup>240</sup>

In this essay, I do not wish to pass judgment on such claims that social policy was and is motivated and designed by upper classes to manipulate and control the poor, not by progressive, humanitarian-minded individuals seeking to help and relieve the less fortunate. Nor do I intend to denigrate or dismiss all “altruistic rationales.” I simply endeavor to make the far more limited assertion that not all green acts are pure—I simply want to cast doubt on the idealistic and moralistic interpretations of green consciousness and the reasons for certain acts of environmental do-goodism.

Third, I am not claiming that personal shifts in attitudes and behaviors are the panacea for all or even many environmental problems. While it is

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238. Bryson, *supra* note 91, at 884, 885.

239. See WILLARD GAYLIN, IRA GLASSER, STEVEN MARCUS, & DAVID J. ROTHMAN, *DOING GOOD: THE LIMITS OF BENEVOLENCE* 83 (Pantheon 1978) (1974).

240. Walter I. Trattner, *Introduction*, in *SOCIAL WELFARE OR SOCIAL CONTROL?: SOME HISTORICAL REFLECTIONS ON REGULATING THE POOR* 3, 6 (Walter I. Trattner, ed., Univ. of Tennessee Press 1983).

my hope that being green does not become a status marker—while it is my hope that environmental do-goodism not become the province of a particular class—while it is my hope that being green becomes available and acceptable to everyone, I am under no illusions that even if shirts in personal attitudes and behaviors were to transpire, they would be enough to combat the myriad environmental problems that we face.

There are instances in which relatively small changes in human behavior can correct and reverse environmental degradation. For example, the shift by Nigerian farmers in the Sahel region of the country from clearing trees and saplings from their fields before planting to protecting and nurturing trees and saplings instead has radically transformed the ecology of this semi-arid tropical savanna south of the Sahara, restoring its biodiversity and productivity.<sup>241</sup> Whereas these simple, inexpensive methods of reforestation by poor Nigerian farmers has halted desertification, addressing a problem like climate change will entail much more than slight individual behavioral shifts. As Michael Specter suggests, “[h]ow do we alter human behavior significantly enough to limit global warming? Personal choices, no matter how virtuous, cannot do enough. It will also take laws and money.”<sup>242</sup> Similarly, as psychology professor Steven Pinker writes, “even if every last American became conscientious about his or her carbon emissions, the effects on climate change would be trifling, if for no other reason than that two billion Indians and Chinese are unlikely to copy our born-again abstemiousness.”<sup>243</sup>

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241. Lydia Polgreen, *In Niger, Trees and Crops Turn Back the Desert*, N.Y. TIMES, Feb. 11, 2007, at 1, 6.

242. Specter, *supra* note 25, at 44. According to John Murlis, chief scientific advisor to the Carbon Neutral Company, which helps corporations adopt policies to reduce their carbon footprint as well as those of the products they sell, in our collective rush to make choices that display personal virtue, we may be losing sight of the larger problem:

Would a carbon label on every product help us? I wonder. You can feel very good about the organic potatoes you buy from a farm near your home, but half the emissions—and half the footprint—from those potatoes could come from the energy you use to cook them. If you leave the lid off, boil them at a high heat, and then mash your potatoes, from a carbon standpoint you might as well drive to McDonald’s and spend your money buying an order of French fries.

*See id.* While I appreciate Murlis’ point with respect to potatoes, I am not sure I would suggest that we are losing sight of the larger problem (the imperative to reduce emissions of greenhouse gases). Rather, I fear that not enough people even have the larger problem in view to begin with and my hope is that a collective rush to reduce our individual carbon footprints, combined with a corporate rush and a governmental rush, will bring about the transformation we need. *Id.*

243. Pinker, *supra* note 68, § 6:32, 58.

On the surface, it may sound as if my comments regarding the limits of personal behavior shifts with respect to the environment echo those of former Vice President Dick Cheney, who in May 2001 famously stated: “Conservation may be a sign of personal virtue, but it is not a sufficient basis—all by itself—for a sound comprehensive energy policy.” *See* Geneva Overholser, *Is energy conservation for sissies?*, SEATTLE POST-INTELLIGENCER, May 8, 2001.

I agree with Specter and Pinker and thus, as noted above in part IV, I expressed support not only for greener technologies and better technological policy to facilitate research and development in low-carbon technologies, but legislation with teeth that forces us to switch to cleaner sources of energy and reduce our emissions of greenhouse gases. The point of this essay is simply that while personal participation in greener living should be for everyone, if we are not careful, environmentally friendly behaviors may become a form of exclusion akin to or consistent with other forms of race- and class-based exclusion. Claims of “green bigotry,”<sup>244</sup> as noted in part II, are far less common than they used to be. Let us hope it stays that way and that the age of green does not become an age of inequality.<sup>245</sup>

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The difference is that while I am arguing for a way to make conservation *more accessible* for more people, I am also maintaining that governmental action to reduce consumption of fossil fuels is absolutely necessary. See *supra* Part IV; see also Brisman, *Aesthetics*, *supra* note 66. Vice President Cheney, on the other hand, issued his statement in the context of a call for more new power plants—1,300 to 1,900 over the next twenty years, 38,000 miles of new pipeline for natural gas, and more nuclear-powered electric plants. In other words, while Vice President Cheney was contending that cutting back on non-renewable energy sources was not enough to address our energy needs and thus we would need to build more plants, I am maintaining that cutting back on non-renewable energy sources is not enough and that we need governmental efforts to further catalyze a shift to renewables.

244. Ronald A. Taylor, *Do Environmentalists Care About Poor People?*, 96 U.S. NEWS & WORLD REPORT 51, 51-52 (Apr. 2, 1984) (quoting African American activist Cliff Boxley of San Mateo (CA) county).

245. A similar idea has been expressed by Andrew Hurley, who, in his account of environmental degradation in Gary, Indiana, writes, “It is no coincidence that the age of ecology was also an age of environmental inequality.” ANDREW HURLEY, ENVIRONMENTAL INEQUALITIES: CLASS, RACE AND INDUSTRIAL POLLUTION IN GARY, INDIANA, 1945-1980 (1995).