

GRATITUDE AND THE ENVIRONMENT:
TOWARD INDIVIDUAL AND COLLECTIVE ECOLOGICAL
VIRTUE

Reed Elizabeth Loder*

I. INTRODUCTORY REMARKS

A hillside, fine weather day, wild creature or plant often leaves the observer with a sense of fortune and thankfulness. Either fleeting, or marshalling commitment to preserve or restore such ecological bounty, the feeling is expected and familiar to most. People pity or condemn those who fail to respond to their natural surroundings with gratitude as missing an elemental experience.

Other bounties are less visible and familiar. Ecological services make life possible, not just pleasant. These include agricultural services like pollination, soil fertilization, and erosion control. They include wetland protections from some ravages of storms and floods and forest influences on water purity and climate stability. The emotional response of gratitude is less spontaneous toward processes and systems hidden from direct view and thus taken more for granted.

Beyond elusive properties of the environment itself, people's capacities for environmental gratitude are quite varied. The emotion has different objects, accompanying beliefs and attitudes, intensity, durability, and relationship to commitments and conduct. Environmental gratitude has moral content people that can and do evaluate in everyday life. We can assess gratitude as attached to the right or wrong objects, based on accurate understanding or misinformation, and enduring or shallow. We can also estimate gratitude collectively, considering how cultural and other institutions facilitate or impede the response. Law is one of those institutions that can both reflect and deliberately promote gratitude as a collective virtue.

The goal of this project is to examine environmental gratitude systematically, a project missing from environmental policy or ethics literature. I intend to

* Professor, Vermont Law School.

explore environmental gratitude as a moral virtue, or well-developed disposition to experience positive emotions across appropriate situations and develop attitudes and patterns of conduct accordingly. Specifically, the virtue of environmental gratitude is a finely tuned propensity to notice and feel grateful for one's surroundings on a regular basis, which generates pervasive attitudes of concern for planetary welfare and commitment to contribute ecological benefits to the extent of one's ability. My thesis is that individuals can cultivate virtuous environmental gratitude, converting rudimentary feelings of thankfulness into generalized sensibilities, improved knowledge, sustaining motivation, and effective action. I contend further that social institutions can foster such development collectively, and that law can play a significant role in this process.

My examination of environmental gratitude belongs largely to the virtue ethics tradition in moral philosophy, a field of contemporary interest and promise despite critics. The first part of this paper generally explains that tradition enough to illustrate commonalities and key differences. This is necessary because environmental gratitude is a specific virtue that belongs within a larger framework of virtue. Although comprehensive theoretical treatment of virtue belongs to another venue, I address some essential points about the nature and sources of virtue and its relationship to ethical conduct. I consider what makes a trait good and how virtuous traits guide conduct. I apply virtue ethics to the environment and defend the view that virtue ethics is well adapted to environmental issues.

After considering virtue ethics, my second task is to explore gratitude as a virtue aside from its environmental dimensions. Here I consider the prevailing Western definition of gratitude as a response to benefits a benefactor bestows intentionally, imposing some obligation on the recipient to reciprocate should opportunities arise. I argue that this view aptly describes some common forms of gratitude but is an overly narrow way to understand gratitude as a virtue, especially an environmental virtue. I develop a notion of free-floating or diffuse gratitude as closer to the virtuous form and more suited to the environmental context. This view is aligned with cultural traditions that unhinge gratitude from intentional gifts and specific debts.

Environmental gratitude itself is the third and main topic. I consider how gratitude toward the environment differs from gratitude toward humans, given the absence of identifiable benefactors capable of intentional action in most environmental contexts. I examine the meaning of environmental gratitude given devastations and "cruelties" of nature. Applying Aristotle's idea of a mean between deficiency and excess, I discuss how environmental gratitude relates to other environmental virtues such as humility, caring, courage, and wisdom. I

propose a typology of gratitude toward the environment as teacher, healer, source of cultural inspiration and place identity, material benefactor, friend, and being itself. I consider how these dimensions of gratitude translate into attitudes and conduct more or less virtuous.

Then I examine institutional mechanisms for conscious and collective cultivation of the virtue, emphasizing law. I argue that law can promote virtue generally, albeit indirectly and less effectively than some other social institutions. I selectively consider how some existing American and international sources of environmental law currently underplay gratitude, and I recommend adaptations. Because reforming policy and law to better protect ecological services is an area of contemporary national and international concern, I use that legal context to propose specific new directions toward collective environmental gratitude.

II. VIRTUE ETHICS AS MORAL THEORY

Although it is difficult to distill key elements of any rich and diverse theoretical tradition, I offer here a preliminary description of contemporary virtue ethics sufficient to illuminate my treatment of gratitude as a virtue. A turn toward virtue ethics has lured some current Western philosophers back toward the classical Greeks, particularly Aristotle.¹ Non-western traditions also reflect longstanding attention to virtue, some selectively considered here.² The contemporary revival of virtue ethics in Western philosophy is in part a response to limitations of teleological ethics that assess morality in terms of goods or results,³ and deontological theories that focus on moral duties independent of their consequences.⁴ Neither approach is comprehensive, according to virtue critics, because both neglect or minimize the affective component of morality centered on emotions and motivations in favor of

¹ See Aristotle, *The Nicomachean Ethics* (Bobbs-Merrill ed., Martin Ostwald trans. 1962) [hereinafter *Ethics*]. See generally Philippa Foot, *Virtutes and Vices And Other Essays in Moral Philosophy* (1978); Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (2d ed. 1981); Martha C. Nussbaum, *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy* (1986); Gabrielle Taylor, *Pride, Shame, and Guilt: Emotions of Self-Assessment* (1985) for a diverse but non-exhaustive sampling of modern work.

² Mentioning two of many possible examples, virtue is central in both Confucian and Buddhist thought. See, e.g., CONFUCIUS, *THE ANALECTS* (Penguin ed., D.C. Lau trans. 1979) 59, 72, 84, 100, 112, 116, 124, 137 (relating Confucian lessons on important traits like reverence, benevolence, and wisdom); DAVID E. COOPER & SIMON P. JAMES, *BUDDHISM, VIRTUE AND ENVIRONMENT* 68–105 (2005) (discussing Buddhist virtues such as humility, solicitude, and non-violence).

³ William K. Frankena, *Ethics* 14–16 (2d Ed. 1973).

⁴ *Id.* at 16–20.

action-oriented analysis.⁵ Some virtue ethicists focus more on personal character than conduct, reducing ethical action to what a virtuous person would do.⁶ Others insist that actions and virtue should not be separated and acknowledge independent standards for conduct.⁷ Yet virtue ethicists share the common sense idea that dispositions are central to morality, and that people fare better or worse morally in their stable trait composition.⁸ Excellence of moral character is thus a key idea.⁹ As a person can acquire athletic or professional proficiency, for example, so she can develop exceptional moral personality. While virtue ethicists disagree about the nature and roots of such excellence (or deficiency), they accept normative standards in matters of virtue and vice.¹⁰

Virtue ethics must have an evaluative dimension. A complete theory must be able to distinguish good manifestations of dispositions from those not so good.¹¹ Human traits are not inherently moral even when they are important to morality. Aristotle made this point well when he posited the idea of virtue as a mean between excess and deficiency.¹² Some dispositions generally tend to be worthwhile, such as courage, generosity, and fidelity, but their merit must be assessed in particular contexts through practical reason.¹³ The presence and expression of a characteristic is appropriate or not depending on the

⁵ See, e.g., Michael Stocker, *The Schizophrenia of Modern Ethical Theories*, in VIRTUE ETHICS 66, 71 (Roger Crisp & Michael Slote eds., 2006) (separation of reason and motives in utilitarianism and deontology); ROSALIND HURSTHOUSE, ON VIRTUE ETHICS 1–3, 108 (1999) (moral philosophy needing to address emotions, motives and character); CHRISTINE SWANTON, VIRTUE ETHICS: A PLURALISTIC VIEW 93 (2003) [hereinafter VIRTUE ETHICS] (describing virtue ethics as having components “both teleological and non-teleological”).

⁶ See, e.g., Robert B. Loudon, *On Some Vices of Virtue Ethics*, in VIRTUE ETHICS 200, 200 (Roger Crisp & Michael Slote eds., 2006) (questioning over-emphasis on agents, not acts); Michael Slote, *Agent-Based Virtue Ethics*, in VIRTUE ETHICS 238, 238 (Roger Crisp & Michael Slote eds., 2006) (examining agent-based approach making acts derivative of character and motives).

⁷ See, e.g., Christine Swanton, *A Virtue Ethical Account of Right Action*, 112 ETHICS 32, 32 (2001) [hereinafter *Right Action*] (arguing for virtue account of right action).

⁸ See, e.g., SWANTON, VIRTUE ETHICS, *supra* note 5, at 19, 26 (virtues as character dispositions); John McDowell, *Virtue and Reason*, in VIRTUE ETHICS 140, 140–41 (Roger Crisp & Michael Slote eds., 2006) (virtue as disposition “to behave rightly”); HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 99–100 (differences in emotive character).

⁹ See, e.g., ARISTOTLE ETHICS, *supra* note 1, at Bk.II.6; MACINTYRE, *supra* note 1, at 187,190–91. SWANTON, VIRTUE ETHICS, *supra* note 5, at 1–2; HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 13.

¹⁰ See, e.g., MACINTYRE, *supra* note 1, at 181–85 (describing differing historical virtue standards).

¹¹ See, e.g., SWANTON, VIRTUE ETHICS, *supra* note 5, at 77 (chapter addressing “what makes a character trait a virtue”).

¹² ARISTOTLE, ETHICS, *supra* note 1, at Bk. II.2, II.6.

¹³ SWANTON, VIRTUE ETHICS, *supra* note 5, at 3, 9, 11; HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 17, 40.

circumstances and impact on other traits.¹⁴ Courage is an example. While people generally admire those who display courage and disparage cowards as deficient in the trait, they recognize that courage can be excessive if it leads to rash disregard of other morally important obligations.¹⁵ The parent who takes huge risks without regard for family, the community official who expends scarce public money for scant hope of benefit, or the police officer who chases a suspect without regard for bystander safety, express courage in an excessive and non-virtuous manner.

Most virtue ethicists describe an intellectual component of virtue, in that character reflects how one “sees” the world, generating beliefs, attitudes, and overall outlook on life.¹⁶ Aristotle’s phronesis, often translated as practical wisdom, is a highly influential idea.¹⁷ One with practical wisdom possesses special abilities to discern the moral features of particular situations and identify the right or best responses.¹⁸ This is not strictly rationalistic intelligence, however, because the virtuous person is also emotionally disposed toward better responses.¹⁹ According to Aristotle, the virtuous person feels appropriate emotions, “...at the right time, toward the right objects, toward the right people, and in the right manner...”²⁰

How to define virtue and explain the source of standards differs among theorists. Some follow Aristotle in a naturalistic approach. Aristotle saw the life of virtue as conducive to eudaimonia, a kind of complex happiness that realizes the best of human potential.²¹ Some modern naturalistic virtue ethicists root standards of excellence in the capacities and flourishing of humans.²² A

¹⁴ See, e.g., HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 131, 154 (arguing that traits are not independent and isolated).

¹⁵ ARISTOTLE, ETHICS, *supra* note 1, at Bk. II.2, II.9.

¹⁶ See, e.g., SWANTON, VIRTUE ETHICS, *supra* note 5, at 20–22 (virtue as responding sensitively and well to the world).

¹⁷ ARISTOTLE, ETHICS, *supra* note 1, at Bk. II.6, II.9, Bk. VI.5, VI.12 (using practical wisdom to deliberate on mean in particular cases). See also SWANTON, VIRTUE ETHICS, *supra* note 5, at 27 (affirming Aristotle’s view that practical wisdom belongs to all virtue); HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 59 (approving Aristotle’s idea of practical wisdom).

¹⁸ ARISTOTLE, ETHICS, *supra* note 1, at Bk. II.6, II.9 (difficulties in determining the mean).

¹⁹ *Id.* at Bk. II.6.

²⁰ *Id.*

²¹ *Id.* at Bk. I.9, X.6, X.7, X.8 (happiness as activity conforming to virtue). See also HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 10 (“well-being” better translation of eudaimonia than happiness).

²² See, e.g., Martha C. Nussbaum, *Human Capabilities*, in WOMEN, CULTURE, AND DEVELOPMENT 83–85 (Martha Nussbaum & Jonathan Glover eds., 2007) (capabilities basic to human functioning); HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 21, 192, 198–201, 224–26 (discussing attributes of humans as species, including rationality).

complete theory needs to explain why traits are virtuous and distinguish those from ordinariness and vice.²³

Theories also differ significantly on the content of specific virtues and their interrelationships. “Lists” of virtues vary across theories, cultures, and times.²⁴ Views tend to overlap, however, on the importance of other-regarding virtues like generosity and benevolence,²⁵ virtues of self-improvement like temperance and courage,²⁶ and the existence of some virtues like gratitude and compassion that are predominantly based on feelings and emotions.²⁷ Most also agree that the total configuration of traits matters, adopting a holistic approach to assessment while also attending to specific virtues.²⁸

Virtue theory has detractors. Common objections include doubts that the approach can provide principled ethical guidance for action in concrete circumstances,²⁹ that standards of excellence are overly subjective, intuitive, relativistic, and self-contained,³⁰ and that the approach is permissive and fails to proscribe intuitively abhorrent results.³¹ I believe these objections can be quelled and address each within the larger discussion.

III. POSSIBILITIES AND CRITIQUE OF ENVIRONMENTAL VIRTUE ETHICS

Environmental virtue ethics has recently emerged as a self-conscious emanation of virtue ethics, although hardly as a groundswell. Several virtue ethicists have identified a specialized idea of virtue and vice with implications for the

²³ See, e.g., SWANTON, VIRTUE ETHICS, *supra* note 5, at 90–94 (virtue distinguished as responding well to “demands of the world”).

²⁴ MACINTYRE, *supra* note 1, at 181–85 (no unified idea of virtue).

²⁵ See, e.g., CONFUCIUS, *supra* note 2, at 59, 72, 84, 92, 112, 116, 124, 144 (importance of benevolence); HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 104, 109, 154 (importance of charity and love); Rosalind Hursthouse, *Virtue Theory and Abortion*, in VIRTUE ETHICS 229, 230, 233 (Roger Crisp & Michael Slote eds., 2006) (importance of caring, love, and family); SWANTON, VIRTUE ETHICS, *supra* note 5, at 7, 23, 31 (importance of love and benevolence).

²⁶ See, e.g., ARISTOTLE, ETHICS, *supra* note 1, at Bk. III.9–12 (building virtue through courage and self-control); HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 92, 97 (building self-control); CONFUCIUS, *supra* note 2, at 70, 89 (importance of doing one’s best).

²⁷ See, e.g., TERRANCE MCCONNELL, GRATITUDE 81, 103 (1993) (moral importance of feeling like gratitude).

²⁸ See, e.g., HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 131, 154 (virtues not isolated).

²⁹ See, e.g., Louden, *supra* note 6, at 206–07 (describing limits of virtue ethics in guiding action).

³⁰ See SWANTON, VIRTUE ETHICS, *supra* note 5, at 246–47 (acknowledging claim that virtue is relative to culture but denying that pluralistic theories imply relativism); HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 203–04, 206 (acknowledging indeterminacy and disagreement in all kinds of thought but defending species flourishing as providing foundations).

³¹ See Louden, *supra* note 6, at 207 (virtue ethics “in danger of blinding itself” to wrong actions).

environment.³² Other virtue ethicists have applied their virtue or virtue-leaning theories to environmental affairs.³³ Their shared idea is that human traits affect how humans treat their surroundings. Collective norms of treatment shape environmental policy and law at the national and international levels, whether or not explicit.

The importance of virtue is latent in longstanding environmental ethics literature that emphasizes the impacts of human characteristics.³⁴ What is new is the explicit judgment that virtue theory has advantages for environmental ethics over, or along with, some traditional approaches.³⁵ For example, the holistic thrust of virtue ethics is amenable to appreciating ecological concepts.³⁶ So is the movement beyond the human subjects of traditional ethics. Some virtue ethicists believe that environmental ethics derailed on the distinction between anthropocentric and non-anthropocentric theory.³⁷ When environmental ethics came into its own as a strand of philosophy, it responded to a sense of urgency about rapid and negative changes to the environment in contamination of air and waters, losses of species biodiversity, and disappearance of relatively pristine places, largely at human hands.³⁸ Many urged that only deep changes in

³² See generally *Environmental Virtue Ethics* (Ronald Sandler & Philip Cafaro eds., 2005) [hereinafter Sandler & Cafaro]; Louke Van Wensveen, *Dirty Virtues: The Emergence of Ecological Virtue Ethics* (2000); Ronald L. Sandler, *Character and Environment* (2007) [hereinafter Sandler].

³³ See, e.g., SWANTON, *VIRTUE ETHICS*, *supra* note 5, at 94; HURSTHOUSE, *ON VIRTUE ETHICS*, *supra* note 5, at 206; Thomas E. Hill, Jr., *Ideals of Human Excellence and Preserving Natural Environments*, 5 ENVTL. ETHICS 211–24 (1983); Geoffrey Frasz, *Benevolence as an Environmental Virtue*, in Sandler & Cafaro, *supra* note 32, at 121–34; SANDLER, *supra* note 32, at 123–40 (applying virtue ethical analysis to genetically modified organisms).

³⁴ See Philip Cafaro, *Thoreau, Leopold, and Carson: Toward an Environmental Virtue Ethics*, in Sandler & Cafaro, *supra* note 32, at 31–44 (interpreting famous environmental works as implicitly virtue oriented); Bill Shaw, *A Virtue Ethics Approach to Aldo Leopold's Land Ethic*, in Sandler & Cafaro, *supra* note 32, at 93–106 (highlighting virtue dimensions of land ethic).

³⁵ See, e.g., David Schmitz & Matt Zwolinski, *Virtue Ethics and Repugnant Conclusions*, in Sandler & Cafaro, *supra* note 32, at 111–13 (discussing ecological advantages of virtue ethics over traditional ethical theories); SANDLER, *supra* note 32, at 1–8 (discussing relevance beyond moral rules of virtue and character to environmental ethics).

³⁶ See, e.g., SWANTON, *VIRTUE ETHICS*, *supra* note 5, at 8, 13 (holistic understanding of people and world).

³⁷ See, e.g., BRYAN G. NORTON, *TOWARD UNITY AMONG ENVIRONMENTALISTS* 11–12, 36 (1991) [hereinafter *UNITY*] (lamenting historical and current treatment of schism in environmental ethics as incompatible value perspectives); Bryan Norton, *Which Morals Matter? Freeing Moral Reasoning from Ideology*, 37 U.C. DAVIS L. REV. 81, 83–85 (2003) [hereinafter *Which Morals*] (disapproving ideological, “all-or-nothing” debates and favoring problem-solving compromises).

³⁸ See, e.g., Lynn White, Jr., *The Historical Roots of Our Ecological Crisis*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 14, 15 (Louis P. Pojman & Paul Pojman eds., 5th ed. 2008) (discussing fast paced changes from technology and science); Norman (2011) J. JURIS 389

attitudes could halt this trend before it became irreversible, with a core challenge to the human sense of superiority and centrality in the world.³⁹ The so-called “anthropocentric” view is that nature exists for human purposes, and that environmental value must be measured in human terms.⁴⁰ The “non-anthropocentric” critics insisted that non-human nature had “intrinsic value” apart from its usefulness to people.⁴¹ Some of these critics cast anthropocentric views altogether outside the sphere of ethics.⁴²

One significant challenge is that environmental virtue ethics begs the question in favor of anthropocentrism because the approach centers on human virtue. Several replies are possible. First, one can rely on the distinction between anthropocentric ideas, in which human value is central and environmental value only derivative, and anthropogenic approaches.⁴³ All ethics is anthropogenic in that it depends upon human cognition and the capacity to reason ethically.⁴⁴ Yet normative claims about human superiority do not follow from this human perspective, the respondent would claim.⁴⁵ Critics insist, however, that humans are biological creatures who are simply unable to shed their centrism to adopt a non-anthropocentric view.⁴⁶ Accepting such limitations need not harden human

Myers, *Tropical Forests and Their Species: Going, Going...?*, in THE ENVIRONMENTAL ETHICS AND POLICY BOOK 529, 529 (Donald VanDeVeer & Christine Pierce eds., 3d ed. 2003) (attributing rapid rate of extinctions to humans).

³⁹ See, e.g., ALDO LEOPOLD, A SAND COUNTY ALMANAC 258, 263 (Ballantine 1966) (1949) (need evolution in attitude toward “ecological conscience”); Tom Regan, *The Radical Egalitarian Case for Animal Rights*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 82, 83 (Louis P. Pojman & Paul Pojman eds., 5th ed. 2008) (need to alter beliefs for conduct to change); Paul Taylor, *Biocentric Egalitarianism*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION (Louis P. Pojman & Paul Pojman eds., 5th ed. 2008) 139, 142–44 (need to adopt biocentric respect for nature).

⁴⁰ See, e.g., White, *supra* note 38, at 18 (discussing Christian idea that nature given as benefit for man); Regan, *supra* note 39, at 83–84 (criticizing view of animals as a resource for human benefit); Taylor, *supra* note 39, at 149 (rejecting human judgments of merit in human terms).

⁴¹ See, e.g., Regan, *supra* note 39, at 87–88 (inherent value of animals as experiencing subjects of life); Taylor, *supra* note 39, at 143 (intrinsic value of every living individual).

⁴² Norton, *supra* note 37, at 82.

⁴³ Holmes Rolston, III, *Naturalizing Values: Organisms and Species*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 107, 110 (Louis P. Pojman & Paul Pojman eds., 5th ed. 2008) [hereinafter *Naturalizing Values*] (arguing that anthropogenic theory does not preclude non-human source of value).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See, e.g., NORTON, UNITY, *supra* note 37, at 251 (no source of value independent of humans); Wendy Lynne Lee, Restoring Human-Centeredness to Environmental Conscience: The Ecocentrist’s Dilemma, the Role of Heterosexualized Anthropomorphizing, and the Significance of Language to Ecological Feminism, 14 ETHICS & ENV’T 29, 31 (2009) (human-centered perspective involuntary and ineradicable).

parochialism. It is ethically valuable to recognize constraints even if one cannot completely shed them. Awareness of bias can limit undesirable consequences. Acknowledgement of human limitations is inherent in virtues like humility and gratitude. Virtue theory is compatible with direct moral consideration and respect of non-human beings. That humans are specially constituted for ethical reflection does not preclude them from adopting more egalitarian norms of consideration and worth. Environmental virtue actually facilitates such an outlook and does not beg crucial normative questions about what things have value.

Recent observers have disparaged the field of environmental ethics as languishing in the anthropocentrism debate and failing to provide much concrete guidance for looming practical problems.⁴⁷ The observation is somewhat apt. Ethicists have elaborated well the idea that the non-human environment deserves ethical consideration in its own right. This is an incomplete endeavor, however, unless it tackles issues of implementation, resolving tensions and conflicts in particular settings. Recognizing that non-human lives have independent value and interests that decision-makers should consider in personal and policy deliberations is an important threshold. Still, this thinking is incomplete in particular circumstances where values must be weighed to resolve complex questions about conduct and policy.

It is one thing to acknowledge that wolves have unique value and interests, for example. It is another to decide that government should reintroduce wolves into the Northeast.⁴⁸ That complex determination involves considering such factors as effects on prey species, competing predators like coyotes, and property owners interspersed throughout the target area.⁴⁹ Even if people reach consensus that wolves have direct value, fill an important predator niche, and restoration symbolizes human resolve to rectify past acts leading to species extirpation, questions remain about applying limited public resources to this

⁴⁷ See Lee, *supra* note 46; Christopher Stone, *Do Morals Matter? The Influence of Ethics on Courts and Congress in Shaping U.S. Environmental Policies*, 37 U.C. DAVIS L. REV. 13, 50 (2003) (discussing limited practical influence of environmental ethics on national policy).

⁴⁸ See Bill McKibben, *Human Restoration*, in RETURN OF THE WOLF: REFLECTIONS ON THE FUTURE OF WOLVES IN THE NORTHEAST 5–21, 20–21 (John Elder, ed., 2000) (advocating return of wolves to Northeast); William K. Stevens, *Wolves Howl Could Return In Adirondacks*, N.Y. TIMES, Nov. 17, 1996, <http://www.nytimes.com/1996/11/17/nyregion/wolves-howl-could-return-in-adirondacks.html> (describing study on possible reintroduction plans).

⁴⁹ McKibben, *supra* note 48, at 11–12 (coyotes replaced wolves as predators, but wolves more capable of killing beaver).

worthy purpose among others.⁵⁰ Species value alone does little to resolve such complex issues. Tensions remain not only about wolves in relation to other species, but also about impacts of restoration on individual animals and their social groups. Wolf reintroduction in the West involved transporting Canadian animals by plane, separating some from their packs and familiar habitat.⁵¹ Although these risks may have been justified, they were not thoroughly considered in the predominantly species-based policy analysis. Individual animal suffering and harms are also ethically relevant. The relationship between individual and species value further complicates an already formidable policy decision.

Recently people debated the merits of applying money and effort to cleanse oil from contaminated pelicans and other creatures in the Gulf of Mexico. Some considered this individual attention wasteful, preferring to apply all resources to habitats and systems, while others insisted that trying to alleviate some suffering of hapless living beings was ethically important.⁵² Both the species and individual creatures are non-human, so non-anthropocentric reasoning cannot resolve the ethical and policy tensions.

Despite such limitations, pragmatists are too quick to pronounce the debate between anthropocentric and non-anthropocentric ethicists irrelevant and unconstructive.⁵³ Some eschew theoretical inquiries about sources of value and ethical foundations in favor of practical results and consensus decision-making.⁵⁴ This problem-solving approach is appealing, given urgent and widespread public attention to environmental harms. Its anti-theoretical stance is less effective, however, to resolve environmental controversies at a deep and sustaining level, especially given strain on environmental consensus.

Environmental virtue ethics provides a coherent theoretical foundation for approaching environmental problems, proponents argue. Virtue pluralists see the approach as supplementing, not supplanting, other types of ethical

⁵⁰ See CHARLES C. MANN & MARK L. PLUMMER, *NOAH'S CHOICE: THE FUTURE OF ENDANGERED SPECIES* (1995) (discussing difficulties of balancing other worthy goals with species protection).

⁵¹ See, e.g., Editorial, *Ranchers Who Cry Wolf*, L.A. TIMES, Jan. 15, 1998, at B8 (describing 1995 importation of 66 wolves).

⁵² See, e.g., John Flesher & Noaki Schwartz, *Gulf Spill: Cleaning Animals Largely Futile, Scientist Says*, THE HUFFINGTON POST (June 10, 2010, 5:02 PM), www.thehuffingtonpost.com/gulfoil-spill-animals-cleaning_n_608250.html.

⁵³ See NORTON, UNITY, *supra* note 37, at 11–12, 36; Norton, *Which Morals*, *supra* note 37, at 83–85.

⁵⁴ See, e.g., Norton, *Which Morals*, *supra* note 37, at 83–85.

analysis.⁵⁵ The goal of cultivating dispositions to deliberate well using practical reason applies to environmental deliberations as well.⁵⁶ How particular virtues relate to environmental affairs and how those environmental virtues interrelate in particular circumstances is a useful application of virtues ethics. Good virtue theory must explain what makes a trait virtuous or vicious, a theoretical task.⁵⁷ It must account for the status of particular judgments as more than internal and subjective.⁵⁸ Taking these foundational challenges seriously not only makes a virtue approach more coherent and comprehensive than consensus-based pragmatism, but it also offers better potential justifications for decisions when the environmental going gets rough and policies fail to garner agreement. Pragmatism is largely a “conventionalist” ethic, relying on consensus to solve problems.⁵⁹ Yet prevailing morality may be flawed or lagging, as the history of notorious ethical lapses like slavery and genocide illustrate. Cruelty and exploitation of any kind is inconsistent with virtues of courage, gratitude, humility, and benevolence, and virtue ethics would not condone such conditions merely because they reflected prevailing attitudes. Environmental reforms should not await widespread agreement.

IV. GRATITUDE AS A VIRTUE GENERALLY

A. From Cicero to Emily Post

Gratitude is such a common emotion to seem prosaic and hardly virtuous. People regularly thank others for token gifts and favors, making such gestures niceties of ordinary life. From a virtue ethics perspective, basic questions arise: What makes gratitude a moral emotion? Why is gratitude ever a virtue and not merely a feeling? When does gratitude become a virtue if ever it can?

⁵⁵ See SWANTON, *VIRTUE ETHICS*, *supra* note 5, at 24, 293–96 (arguing for pluralistic virtue ethics); HURSTHOUSE, *ON VIRTUE ETHICS*, *supra* note 5, at 7, 41 (arguing that virtue approach distinctive but compatible with ethical goal of rules for conduct); Louden, *supra* note 6, at 215–16 (arguing that morality too complex for unitary approach); SANDLER, *supra* note 32, at 4 (discussing sympathies with environmental pluralists).

⁵⁶ See ARISTOTLE, *ETHICS*, *supra* note 1, at Bk. II.6 (wisdom employed to determine virtuous mean in particular cases); HURSTHOUSE, *ON VIRTUE ETHICS*, *supra* note 5, at 12–14 (practical reason allows correct practical determinations).

⁵⁷ See SANDLER, *supra* note 32, at 5, 12, 141 (need theoretical account of what makes a trait a virtue).

⁵⁸ See SWANTON, *VIRTUE ETHICS*, *supra* note 5, at 8 (stressing nature of virtue as responding to demands of the world).

⁵⁹ “A convention is a principle or proposal which is adopted by a group of people, either by explicit choice. . . or as a matter of customs, whose origins are unknown and unplanned. . . .” *THE OXFORD COMPANION TO PHILOSOPHY* 165 (Ted Honderich ed., 1995). Some virtue ethical theories do rely on something close to convention, however.

Despite differences in emphasis and definition, gratitude has cross-cultural and cross-temporal significance. Cicero called gratitude “not only the greatest of virtues, but the parent of all the others.”⁶⁰ Its importance emerges in diverse cultural and historical traditions, including Judaism,⁶¹ Islam,⁶² and ancient Roman thought.⁶³ Its significance straddles multiple disciplines, including law,⁶⁴ religion,⁶⁵ philosophy,⁶⁶ literature,⁶⁷ psychology,⁶⁸ sociology,⁶⁹ and biology.⁷⁰

⁶⁰ See Michael McCullough, Robert A. Emmons, Shelley D. Kirkpatrick & David B. Larson, *Is Gratitude a Moral Affect?*, 127 PSYCHOL. BULL. 249, 249 (2001) (quoting Cicero).

⁶¹ See Aaron Levine, *Hakkarat Hatov (Gratitude) and the Moral Personality*, 25 TRADITION 42, 44–47 (1990) (discussing Talmudic gratitude toward God and parents); Robert A. Emmons & Cheryl A. Crumpler, *Gratitude as a Human Strength: Appraising the Evidence*, 19 J. SOC. & CLINICAL PSYCHOL. 56, 56, 59–60 (2000) (gratitude to God expressed in Psalms).

⁶² See Seyyed Hossein Nasr, *Islam and the Environmental Crisis*, in SPIRIT AND NATURE: WHY THE ENVIRONMENT IS A RELIGIOUS ISSUE 86, 88 (Steven C. Rockefeller & John C. Elder eds., 1992) (Quran revealing God in of nature); Emmons & Crumpler, *supra* note 60, at 61–62 (prayers of thankfulness for God’s gifts and for gratitude itself); A. Kevin Reinhart, *Thanking the Benefactor*, in SPOKEN AND UNSPOKEN THANKS: SOME COMPARATIVE SOUNDINGS 115, 116, 119, 124, 127 (John B. Carman & Frederick J. Streng eds., 1989) [hereinafter Carmen & Streng] (obligation to thank and obey God as benefactor).

⁶³ Seneca, the Roman Stoic philosopher, writing around 54 AD, extolled gratitude as building character and community. See Edward J. Harpham, *Gratitude in the History of Ideas*, in THE PSYCHOLOGY OF GRATITUDE 19, 22–25 (Robert A. Emmons & Michael E. McCullough eds., 2004); McCullough et al, *supra* note 60, at 249 (quoting Cicero on gratitude as “parent” of all virtues).

⁶⁴ This will be part of my argument in this paper.

⁶⁵ See, e.g., Carman & Streng, *supra* note 62, at 1, 13, 23, 33, 43, 55, 75, 81, 93, 115, 135, 145 (anthology on gratitude across religions and sects, including Hinduism, Buddhism, and Islam).

⁶⁶ Philosophical works on or considering gratitude are not as plentiful as one might expect. See, e.g., Harpham, *supra* note 63, at 22–25 (describing Seneca’s views). See generally MCCONNELL, *supra* note 27 (only book devoted entirely to the subject by an American philosopher). Several philosophers have had strong views on ingratitude. See *id.* at 3 (describing Kant’s and Hume’s scorn for ingratitude).

⁶⁷ Shakespeare’s descriptions of ingratitude as “hideous” in *King Lear* and “hateful” in *The Twelfth Night* are examples. See McConnell, *supra* note 27, at 3; Harpham, *supra* note 63, at 19 (quoting *Twelfth Night*).

⁶⁸ See generally Robert A. Emmons & Michael E. McCullough eds., THE PSYCHOLOGY OF GRATITUDE (2004) [hereinafter Emmons & McCullough] (anthology entirely on the subject). See also Emmons & Crumpler, *supra* note 61, at 62–65 (describing empirical attention to gratitude); McCullough et al, *supra* note 60, at 249–50 (describing historical ambivalence but new interest of psychologists in “positive emotions” like gratitude).

⁶⁹ See, e.g., Georg Simmel, *Faithfulness and Gratitude*, in THE SOCIOLOGY OF GEORG SIMMEL 379–95 (trans. Kurt H. Wolff, Kurt H. Wolff ed., 1950) (Simmel’s famous essay on gratitude and social cohesion); Alvin W. Gouldner, *The Norm of Reciprocity: A Preliminary Statement*, in THE GIFT: AN INTERDISCIPLINARY PERSPECTIVE 49 (Aafke E. Komter ed., 1996) (questioning view that gratefulness leads invariably to reciprocity and arguing that power relations are also possible).

⁷⁰ See, e.g., Edward O. Wilson, *The Biological Basis of Morality*, THE ATLANTIC, (April 1998), <http://www.theatlantic.com/pastdocs/issues/98apr/biomoral.htm> (last visited May 6, 2011) (2011) J. JURIS 394

Some political scientists treat gratitude as the basis for obeying laws that secure society.⁷¹ Sociologists have treated the emotion as the “moral memory” that makes reciprocity and community possible.⁷² For contemporary psychologists, gratitude is a vital component of resilience, or the capacity to recover from stresses and maintain equanimity in life.⁷³ Moral philosophy, the primary perspective I adopt here, considers gratitude a moral emotion that influences moral deliberation and action. Cross-disciplinary insistence on the importance of gratitude suggests a persistent conviction that the emotion and its expression are more than conventions of etiquette.

Harshly negative attitudes toward ingratitude also suggest centrality. In ordinary life people condemn those who fail to feel and express thanks for gifts, small and large. Historical thinkers show marked disapproval of ingratitude, variously pronouncing it as, “the most horrid,”⁷⁴ “vile,”⁷⁵ and “evil,”⁷⁶ human condition. One can evaluate the presence and appropriateness of gratitude in particular cases, and often its absence mars human character.

B. Gratitude as Exchange

What, then, is gratitude generally? The conventional view, at least in prevailing “western” thought, is that gratitude involves a three-way relationship between a giver or benefactor, a taker or recipient, and an object that is a benefit or service.⁷⁷ Gratitude is a response to a benefactor who intends to benefit a

(asserting “genetic fitness” for reproduction and survival through cooperation); Emmons & Crumpler, *supra* note 61, at 64 (mentioning “biosocial origins of gratitude” and view that gratitude rewards altruism and promotes cooperation).

⁷¹ See, e.g., A.D.M. Walker, Political Obligation and the Argument from Gratitude, 17 PHIL. & PUB. AFF. 191, 195–96, 202–05, 207–08 (arguing for gratitude and duties to State as benefactor).

⁷² Simmel, *supra* note 69, at 388.

⁷³ See, e.g., Barbara Frederickson, Michele M. Tugade, Christian E. Waugh & Gregory R. Larkin, What Good Are Positive Emotions in Crises? A Prospective Study of Resilience and Emotions Following the Terrorist Attacks on the United States on September 11th, 2001, 84 J. PERSONALITY & SOC. PSYCHOL. 365, 365–66, 367 (2003) (gratitude contributing to trait of resilience, or “ability to bounce back”); Barbara L. Frederickson, Gratitude, Like other Positive Emotions, Broadens and Builds, in Emmons & McCullough, *supra* note 68, at 145, 153–54 (gratitude among positive emotions that enhance creativity and facilitate recovery from stress). See also MCCULLOUGH et al., *supra* note 60, at 252–53 (gratitude as motivating and reinforcing morality).

⁷⁴ DAVID HUME, A TREATISE OF HUMAN NATURE 518 (Ernest C. Mosser ed., 1985) (1740).

⁷⁵ IMMANUEL KANT, LECTURES ON ETHICS 218 (Lewis Infield trans., 1930) (1780).

⁷⁶ Albert Schweitzer, A Place for Revelation: Sermons on Reverence For Life 114 (David Larrimore Holland trans., 1988) (1919).

⁷⁷ See, e.g., MCCONNELL *supra* note 27, at 6, 8, 42; A.J. SIMMONS, MORAL PRINCIPLES AND POLITICAL OBLIGATIONS 168 (1979); Claudia Card, *Gratitude and Obligation*, 25 AM. PHIL. Q. (2011) J. JURIS 395

recipient without being obligated to bestow such largesse.⁷⁸ The recipient's grateful response is morally expected only when the gift comes voluntarily and with positive motives.⁷⁹ No gratitude is due for benefits designed to dominate the recipient, for example.⁸⁰ Bounties provided for right reasons with proper intentions impose some kind of obligation on the recipient to make some return, if and when feasible.⁸¹ This duty is neither absolute nor precise. The indebted person without means or opportunity need not reciprocate at all.⁸² A return need not replicate the gift and must be only loosely proportionate.⁸³ The timing of return is similarly open-ended, with some even insisting that immediate reciprocation is unseemly.⁸⁴ Another common notion is that making a return does not exhaust the obligation and that gratitude should be an ongoing response to significant benefaction.⁸⁵

115, 117 (1988); McCullough et al., *supra* note 60, at 257; A.D.M. Walker, *Gratefulness and Gratitude*, 81 PROC. OF THE ARISTOTELIAN SOC'Y 39, 48 (1981); Paul F. Camenisch, *Gift and Gratitude in Ethics*, 9 J. RELIGIOUS ETHICS 1, 2 (2001); Fred R. Berger, *Gratitude*, 85 ETHICS 298, 299, 302 (1975); Robert C. Roberts, *Character Ethics and Moral Wisdom*, 15 FAITH & PHILOS. 478, 492–93 (1998) [hereinafter *Character Ethics*].

⁷⁸ See Daniel Callahan, *What Do Children Owe Elderly Parents?*, 15 HASTINGS CENTER REPORT 32, 35 (1985); Camenisch, *supra* note 77, at 2 (gift not earned or deserved). *But see* MCCONNELL, *supra* note 27, at 15–16 (discussing arguments against no-duty view).

⁷⁹ See Berger, *supra* note 77, at 299 (“voluntariness” of bestowing benefits); MCCONNELL, *supra* note 27, at 23, 25, 44 (freely bestowed benefit without “strings attached” without “disqualifying” motive).

⁸⁰ See, e.g., Berger, *supra* note 77, at 304 (discussing pathology in reasons for giving); MCCONNELL, *supra* note 27, at 25, 44 (discussing “disqualifying” motives).

⁸¹ See Berger, *supra* note 77, at 300 (discussing obligation of gratitude); MCCONNELL, *supra* note 27, at 44–45 (proposing conditions under which gratitude owed); Camenisch, *supra* note 77, at 5, 6 (obligations arising from gifts); Card, *supra* note 77, at 115, 120–21 (“informal obligation” analogous to trustee).

⁸² If a beneficiary is poor or suffers misfortune, or if no opportunity arises, he might never be able to make a return. See MCCONNELL, *supra* note 27, at 49–50, 69.

⁸³ See, e.g., Berger, *supra* note 77, at 302, 306 (equal return not necessary); Roberts, *Character Ethics*, *supra* note 77, at 493 (very small return sometimes enough); Gouldner, *supra* note 69, at 64 (indeterminate reciprocity).

⁸⁴ See Camenisch, *supra* note 77, at 11–12 (avoiding overly prompt return); Aafke Elisabeth Komter, *Gratitude and Gift Exchange*, in THE PSYCHOLOGY OF GRATITUDE 195, 208 (Robert A. Emmons & Michael E. McCullough eds., 2004). *But see* SCHWEITZER, *supra* note 76, at 124 (prompt response appropriate).

⁸⁵ See Camenisch, *supra* note 77, at 9, 12 (“continuing relation” to donor and complete return impossible); Roberts, *Character Ethics*, *supra* note 77, at 493 (grateful one feels indebted even after return); Emmons & Crumpler, *supra* note 61, at 58 (paradoxical nature of gratitude as feeling indebted but never able to repay).

C. Free-Floating Gratitude

The above description is apt for relational contexts in which a human concerned for the welfare of a fellow forms specific intentions to improve the circumstances of the cohort. Yet this idea of gratitude is quite restrictive. It requires at least two intentional actors – one to give and one to accept - and a specific gift, tangible or intangible like a service. Even ordinary experience belies a strictly exchange view of gratitude. Many people feel more generally grateful for ineffable bounties from untraceable sources, such as ideas, flourishing, beauty, and even all there is.

Religious gratitude has broad dimensions. Thankfulness for the beauty and sustaining gifts of God’s creation does not demand proportional return.⁸⁶ Indeed, spiritual gratitude is a response to divine gifts outside the reach of human capacities. Commonly, the proper ethical response is to protect such gifts out of reverence for their source that transcends human frailties. These bounties make human existence possible, and the proper religious attitude is reverent care for God’s creation.⁸⁷

Despite its more expansive notions about the Giver and gifts, typical religious gratitude retains the essentially relational and intentional character of the prevailing exchange view. Human beneficiaries are deeply and broadly indebted to a special kind of Benefactor with super-human powers, who intends to sustain the lesser creatures of earth with divine creations. Religious gratitude is helpful in expanding the grateful response beyond an exchange or quid pro quo kind of relationship into a more pervasive outlook, but it still requires a three-way relationship among a well-intended benefactor, chosen recipients, and undeserved gifts.

⁸⁶ Not all religious perspectives include a creator God. Buddhism is an example. *See, e.g.*, Paul O. Ingram, *The Jeweled Net Of Nature*, in *BUDDHISM AND ECOLOGY* 71, 79 (Mary Evelyn Tucker & Duncan Ryuken Williams eds., 1997) (describing teaching that universe has no beginning, end, or purpose); Frederick J. Streng, *Gratitude and Thankful Joy in Indian Buddhism*, in *SPOKEN AND UNSPOKEN THANKS: SOME COMPARATIVE SOUNDINGS* 43, 43 (John B. Carman & Frederick J. Streng eds., 1989) (no creator, monotheistic God).

⁸⁷ A widely shared, cross-religious view is that humans are responsible stewards of the natural world. *See, e.g.*, Nasr, *supra* note 62, at 92–93 (Islamic view of humans God’s “vice-gerents” care for creation); Sallie McFague, *A Square in the Quilt: One Theologian’s Contribution to the Planetary Agenda*, in *SPIRIT AND NATURE: WHY THE ENVIRONMENT IS A RELIGIOUS ISSUE* 42, 44, 53–54 (Steven C. Rockefeller & John C. Elder eds., 1992) (author’s Protestant interpretation of human as “co-creators” responsible for planetary care); Ismar Schorsch, *Learning to Live with Less: A Jewish Perspective*, in *SPIRIT AND NATURE: WHY THE ENVIRONMENT IS A RELIGIOUS ISSUE* 28, 35 (Steven C. Rockefeller & John C. Elder eds., 1992) (reinterpreting Genesis view of human “as steward and not overlord”).

Can gratitude be conceived even more diffusely, altogether apart from intentional mutual relations? In another forum, I described such free-floating, or unattached, gratitude as an emotional pattern, set of beliefs, and enduring attitudes that saturate the consciousness of the grateful one.⁸⁸ This response is not beholden to particular benefactors and gifts and takes on a life of its own. While free-floating gratitude motivates a grateful person to give back, the subjects and nature of reciprocity are not confined to particular recipients or roughly proportionate acts. Unattached gratitude can embrace strangers, groups, institutions, and abstractions like principles, policies, or laws. It can even encompass highly abstract concepts like existence. Indeed, the amorphous character of this kind of gratitude is part of its power. Free-floating gratitude seeps into one's being and shapes all perceptions and dispositions. It becomes embedded in one's character in ways that can become virtuous with conscious attention to realization. This kind of gratitude is holistic and complex. It is bound to the perceptions, beliefs, attitudes, emotions, and motivations that predispose a possessor to a moral life. It is also inexhaustible in that the pervasively grateful person never runs out of motivation or ways to give back. Such ideal gratitude is a sustaining virtue. Unbounded gratitude is closer to a Buddhist view: "The great open secret of gratitude is that it is not dependent on external circumstance. It's like a setting or channel that we can switch to at any moment, no matter what's going on around us. It helps us to connect to our basic right to be here, like the breath does. It's a stance of the soul."⁸⁹ A person can deliberately empower the pervasive emotion.

D. Traits and Virtues: Assessment in Context

Just as humility and courage can be excessive, gratitude, too, has its downside despite its centrality to social and moral life. A grateful person can thank a benefactor who bestowed gifts for malevolent purposes, such as humiliating the recipient or binding him in a relationship of dependency.⁹⁰ A person can feel thankful to an undeserving giver, such as an abusive partner or racist mentor.⁹¹

⁸⁸ Reed Elizabeth Loder, *Lawyers and Gratitude*, 20 NOTRE DAME J.L. ETHICS & PUB. POL'Y 175, 177, 179–80 (2006).

⁸⁹ Joanna Macy, *World as Lover, World as Self* 77 (2007).

⁹⁰ See *id.* at 187–89; MCCONNELL, *supra* note 27, at 19–26 (some gratitude disqualified by donor's bad motives); Berger, *supra* note 77, at 304–05 ("pathological" gratitude); Charles M. Shelton, *Gratitude: Considerations from a Moral Perspective*, in *THE PSYCHOLOGY OF GRATITUDE* 259, 271 (Robert A. Emmons & Michael E. McCullough eds., 2004) (example of white southerner's misplaced gratitude for slave-based culture).

⁹¹ See Patrick Fitzgerald, *Gratitude and Justice*, 109 ETHICS 119, 142–46 (1998) (discussing gratitude toward abusive parent and arguing that gratitude toward wrongdoer may be (2011) J. JURIS 398

Others can assess such gratitude as misplaced.⁹² The recipient's return can also be misplaced, as when a grateful citizen swears allegiance to a corrupt government, or an employee maintains uncritical loyalty to a corporate employer engaged in wrongdoing. Free-floating gratitude shares the potential to go astray if it results in glib and intolerant allegiance to harmful ideals. Many would agree that none of these forms of gratitude is virtuous. Neither are mere expressions of gratitude virtuous.

We are all familiar with disingenuous thanks. A niece thanks Aunt Bertha, hardly her favorite relation anyway, for a hideous birthday sweater.⁹³ She does this purely to silence her insistent mother. "True" or "genuine" gratitude has an essential inner dimension.⁹⁴ It is an emotion that may or may not be expressed. Most virtues, on the other hand, derive their meaning from action. People do not call someone courageous who never or seldom takes risks, or someone generous who rarely contributes time or effort for the welfare of others, for example. Yet a person can be quietly grateful even if an opportunity never arises to express or consummate the emotion. Perhaps, then, gratitude is a feeling that supports virtues, but not itself in that category.

I do not think the emotive nature of gratitude removes it from virtue candidacy. We sometimes think of emotions as passive and beyond our control, states that come to us without volition. A correlated idea is that we are not responsible for emotive states, only for the way we act in response. Yet we frequently make judgments about the emotional makeup of others and ourselves. Most people frown on excessive anger even when it does not lead to insults or violence. In contrast, they praise compassion as an emotion. When the compassionate response occurs reliably and results in committed assistance to the misfortunate, the emotion tends toward virtue.

People regularly condemn bigoted people who formed their prejudices young and under great pressure, say active family membership in racist organizations. While others acknowledge the source of bias – "you've got to be carefully taught"⁹⁵ – they expect the adult person to identify and reconsider facile and

warranted). *See also* HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 116 (discussing inculcated racism).

⁹² *See, e.g.*, MCCONNELL, *supra* note 27, at 44 (proposing criteria to distinguish appropriate from misplaced gratitude).

⁹³ Loder, *supra* note 88, at 178 (example more briefly discussed).

⁹⁴ *See* Berger, *supra* note 77, at 301 (distinguishing sincere or felt gratitude from outward expression); Camenisch, *supra* note 77, at 15 ("real gratitude" as attitude "within the agent").

⁹⁵ This is the title of the ever-popular Richard Rodgers and Oscar Hammerstein tune from the 1949 musical *South Pacific*.

entrenched attitudes. Certain options seem open, for example, minimizing contacts with prejudiced people, discussing stereotypical ideas with family and others, consciously exposing oneself to targets of bigotry, dedicating time to community activities promoting tolerance, to name just some ways to disrupt embedded feelings and attitudes.⁹⁶ Taking responsibility for emotional and cognitive life is part of moral development. Although such emotions and attitudes may be less directly amenable to conscious decision-making than actions, moral responsibility extends to personal identity beyond conduct. Virtue ethics accepts that people can cultivate worthy dispositions and suppress those that are flawed, making deliberate progress toward virtue.

Undoubtedly, some are just luckier in heritage than others in being surrounded with relatively virtuous people and inculcated with moral sensibilities.⁹⁷ For them, virtue comes more easily, so more can be expected. On the other hand, we hold even the least morally endowed to moral restraint in actions and believe many can nudge their dispositions incrementally over time despite early moral misfortune.⁹⁸ We make negative assessments of those who fail, and especially those who never try. We commend the less ethically fortunate for their efforts to overcome vices. Improving virtue implies identifying and applying standards of evaluation to attitudes and conduct. Meta-ethical ideas about the sources and knowledge of such standards are complex and varied.⁹⁹ Addressing such ultimate issues is beyond the ambition of this project on gratitude, but it is important to understand that virtue theories share the view that moral responsibility encompasses emotional dispositions.

The idea of emotive virtues not only makes sense, but also helps to explain the motivational quality of virtue generally. Virtue makes the ethical question, “Why should I do that?” less relevant than asking why I should ‘do my duty’ or

⁹⁶ Erik von Brunn is a man who was exposed to extreme racist views of his father, James von Brunn. James von Brunn killed a security guard at the Holocaust Museum in Washington, D.C. on June 10, 2009. Erik von Brunn described his father’s influence: “My father’s beliefs have been a constant source of verbal and mental abuse my family has had to suffer with for many years.” Erik courageously acknowledged the viciousness of his father’s hatreds and apologized to the victim’s family for his father’s actions. Statement by Erik von Brunn (June 12, 2009), <http://abcnews.go.com/US/story?id=7826614&page=1> (last visited May 6, 2011).

⁹⁷ See HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 116 (describing people inculcated with racist ideas as “unlucky”); ARISTOTLE, ETHICS, *supra* note 1, at Bk. 1.9, Bk. II.1, II.3, Bk. X.9, 18, 28, 32, 270–271 (virtue not natural but result of habit and fortunate upbringing).

⁹⁸ People commonly accept the possibility of rehabilitation, for example, from crime or substance abuse.

⁹⁹ Views range from naturalistic to conventionalist, for example. See, e.g., HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 198–202 (identifying virtue naturalistically in terms of species functioning); MICHAEL SLOTE, FROM MORALITY TO VIRTUE (1992) 89–90, 92, 94 (identifying virtue as admirable trait).

‘maximize pleasure,’¹⁰⁰ because virtue is inherently motivating. It disposes people to act reliably well, although certainly not infallibly, over time. Gratitude as a virtuous emotion makes the holder receptive to opportunities for return even if suitable moments never arise. A gratefully inclined person experiences gratitude across situations, noticing bounties and dispersing them when possible. People readily commend this posture, making harsh assessments about its absence.¹⁰¹ Most people can recall being accused of ingratitude on occasion and reevaluating their feelings. A parent’s lament, “you do not appreciate my sacrifices,” is as familiar as the commendation, “he is so grateful for his good fortune.” These are primarily judgments about attitudes and emotions. Actions are more the evidence than the core of such affective states. If this were not so, we could not distinguish genuine gratitude from its mere expression.

We can frown on the niece who slights Aunt Bertha by failing to give thanks, but can we fairly complain about the underlying lack of affection and appreciation? We might say, for example, “she can’t help how she feels,” recognizing that feelings are less amenable to moral assessments than actions. Despite this, most people would question why the niece feels no appreciation for Bertha’s kind gesture even as they might accept that emotional void as a fact rather than a direct choice. If they discovered that Aunt Bertha is generally sweet and generous, the void in gratitude would seem especially deficient in the niece. If they learned further that the niece is no longer a child hostage to family attitudes, they might more securely criticize her adult feelings. They might hold her responsible for not examining the sources of her affective deficit and revising prejudices as necessary. The niece’s responsibility for ungrateful feelings is less direct than her responsibility for the decision not to thank Aunt Bertha, but she does bear some responsibility for her emotional character. Popular and psychological literature reflects the accepted view that people can cultivate gratitude. Thought experiments in “counting one’s blessings” are touted as enhancing contentment and resilience, for example.¹⁰²

¹⁰⁰ Philosophers have tried to explain how moral principles and rules motivate a person to act morally. See generally KAI NIELSEN, *WHY BE MORAL?* (1989) (arguing that reason is itself a motivator).

¹⁰¹ Philosophers have historically condemned ingratitude. See HUME, *supra* note 74, at 518; KANT, *supra* note 75, at 218; SCHWEITZER, *supra* note 76, at 114.

¹⁰² See, e.g., M.J. RYAN, *ATTITUDES OF GRATITUDE: HOW TO GIVE AND RECEIVE JOY EVERY DAY OF YOUR LIFE*, 17–18, 26, 44–45, 101–02, 108, 130, 140, 148, 166, 175–76 (1999) (discussing ways to cultivate gratitude in daily living); Barbara L. Frederickson, *Gratitude, Like other Positive Emotions, Broadens and Builds*, in *THE PSYCHOLOGY OF GRATITUDE* 145–66, (Robert (2011) J. JURIS 401

Comprehensive evaluation of gratitude considers virtues in relationship. The status of gratitude as a virtue depends upon a total configuration of virtues.¹⁰³ Gratitude is closely aligned with other traits like humility, caring, and courage. If gratitude is out of balance, those traits suffer, and deficiency or excess in the other characteristics affects gratitude in turn. To expand an earlier example, a young person may feel enduring gratitude for parental benefits conferred not from love but desire to induce submission. Distorted gratitude accompanies excessive humility in this circumstance, despite the general value of both dispositions.¹⁰⁴ The person has yielded dignity and self-respect to the parent and become overly humble, rendering her gratitude simultaneously flawed. Contextual and relational fine-tuning of practical judgment fosters resolve to adjust future responses.¹⁰⁵ In this holistic evaluation, wisdom is the crucial virtue.

Of course, cultural factors greatly influence the definition of even a seemingly universal virtue like gratitude. Not all would reject gratitude for ill intended benefits, for example. Buddhist thought invites gratitude toward enemies, who provide opportunities for enlightenment.¹⁰⁶ Gratitude is related to compassion, on this view. After describing how the Chinese military had decimated a Tibetan place of prayer, a refugee said: “Poor Chinese...They make such bad karma for themselves.”¹⁰⁷ Some Christians emphasize New Testament messages about turning the other cheek as central spiritual guidance,¹⁰⁸ although this is perhaps not so much a call to gratitude toward an aggressor as it is a test for the believer.¹⁰⁹ Such religious attitudes correlate gratitude with humility, illustrating the contextual and relational essence of virtue.

A. Emmons & Michael E. McCullough eds., 2004) (discussing positive emotions and trait of resilience).

¹⁰³ See, e.g., HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 131, 154 (virtues not isolable).

¹⁰⁴ See, e.g., Thomas E. Hill, Jr., *Servility and Self-Respect*, in AUTONOMY AND SELF-RESPECT 4 (1991) (excessive humility of overly doting and sacrificial wife); Fitzgerald, *supra* note 91, at 145 (servility inappropriate basis of gratitude).

¹⁰⁵ ARISTOTLE, ETHICS, *supra* note 1, at Bk. II.6, II.9, Bk. VI.5, VI.12 (practical wisdom allows deliberation in particular cases); SWANTON, VIRTUE ETHICS, *supra* note 5, 27 (approving Aristotelian view of practical reason as part of all virtue); HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 59 (approving Aristotelian view of practical wisdom).

¹⁰⁶ See Fitzgerald, *supra* note 91, at 119, 124–26 (describing Buddhist view and citing Dalai Lama’s gratitude toward China as example).

¹⁰⁷ MACY, *supra* note 89, at 118–19.

¹⁰⁸ *Matthew* 5:49 (King James).

¹⁰⁹ See, e.g., McFague, *supra* note 87, at 43, 52, 54 (accepting that humans are not the center of everything); MACINTYER, *supra* note 1, at 182 (comparing ancient virtues with New Testament virtues like humility); Robert C. Roberts, *The Blessings of Gratitude: A Conceptual Analysis*, in THE PSYCHOLOGY OF GRATITUDE 59, 73 (Robert A. Emmons & Michael E. McCullough eds.,

V. ENVIRONMENTAL GRATITUDE

A. Generally

Keeping this general examination of gratitude in mind, I turn to the specific question, what is environmental gratitude? Does it differ, and if so how, from gratitude more generally? What role, if any, does environmental gratitude play in ethical, policy, and legal decisions about treatment of the environment? Can cultivating gratitude improve individual and, ultimately, concrete public policy and legal decisions on environmental matters?

I have discussed gratitude as a three-way relationship among giver, receiver, and gift. I have argued that this picture fits many human interactions but underemphasizes diffuse and amorphous forms of the emotion. Gratitude for beauty and wellness, indeed, for existence itself, is harder to cast in relational terms unless a divinity has bestowed such graces. Yet people can feel thankful for ideas and experiences not attributed to any benefactors. Those holding a strictly relational view of gratitude could respond that such emotions do involve unidentified benefactors analogous to anonymous donors. Upon learning the benefactor's identity, generalized gratitude would attach to that giver, the relational theorist would say. This might work for ideas so culturally entrenched that their authors are difficult to trace, but it is harder to explain gratitude for conditions like existence or beauty. Unattached gratitude is especially apt in environmental contexts. If people thank evolution for species, or climate for agricultural bounty, for example, the "benefactors" are processes and conditions. Only in highly metaphorical, anthropomorphized senses can we compare these to human benefactors. While environmental gratitude involves relations between humans and their surroundings, the idea of a mutually intentional relationship is missing.

Environmental gratitude is more diffuse than most forms of human gratitude, even applied to exquisite details. One Sunday a big brown bat somehow entered my house. I watched the bat alight on various surfaces for hours without any success capturing and releasing it. Friends were not at home to assist, and the police just advised me to smack it with a broom. Finally the bat rested on some bricks, apparently exhausted. At least I was exhausted, so I blabbered to the bat, lamely hoping to calm it. To my amazement, the bat seemed to be listening as it cocked its head back and forth as I spoke. I suspect the behavior had some

2004) (discussing Christian acknowledgement of human weakness and dependence); DAVID E. COOPER & SIMON P. JAMES, *BUDDHISM, VIRTUE AND ENVIRONMENT* 19 (2005) (describing "self-effacing" Christian virtues such as humility).

alternative explanation and that I was projecting human responses onto the bat. Still, I seized the extended opportunity to stare at the bat's oval mouth and miniature pointed teeth with detached and fearless fascination. All ended as hoped, and I captured and released the creature outdoors. Although this occurred a few years ago, I still consider myself unusually fortunate to see a living bat in such close proximity and, especially, for my feeling of connection, delusional or not. It is inexact to say I felt a debt of gratitude to this particular hapless, possibly even rabid, creature trying madly to escape hostile surroundings. Benefaction was more expansive and detached. I had a glimpse that has infiltrated my outlook on bats and other non-humans.

The two-way intentionality that infuses traditional gratitude is absent in many environmental forms.¹¹⁰ In the classic view, we thank a giver who intends to bestow a benefit beyond obligation or desert.¹¹¹ In most religious gratitude, God or spirit is the benefactor bestowing purposive gifts of creation.¹¹² Yet people may be thankful for natural surroundings without holding any beliefs about the source or creator. They may be grateful for the beauty and speed of cheetahs, for example,¹¹³ completely without any sense that cheetahs are intended for any purpose. Environmental gratitude is enhanced precisely because of the cheetah's independent attributes and its wild condition.¹¹⁴ Environmental gratitude thus does not require mutual intentionality.¹¹⁵ A person may feel personally blessed by the very existence of the natural world. She may also feel graced by species connection and participation in larger nature. Environmentalists have identified existence value as a category of environmental value.¹¹⁶ People appreciate distant and inaccessible aspects of

¹¹⁰ See MCCONNELL, *supra* note 27, at 44 (gratitude for benefit granted intentionally); Berger, *supra* note 77, at 299 (no gratitude due if intention to benefit is missing); Roberts, *Character Ethics*, *supra* note 77, at 92–93 (gratitude personal and involves agency and generosity of giver); Camenisch, *supra* note 77, at 2 (gratitude for intentional gifts).

¹¹¹ Callahan, *supra* note 78, at 35 (gratitude for unearned gift); Camenisch, *supra* note 77, at 2 (gratitude for unearned “windfall”).

¹¹² *But see*, Streng, *supra* note 86, at 43 (no creator, monotheistic God in Buddhism); Malcolm David Eckel, *Gratitude to an Empty Savior: A Study in the Concept of Gratitude in Mahayana Buddhist Philosophy*, in SPOKEN AND UNSPOKEN THANKS: SOME COMPARATIVE SOUNDINGS 55, 55 (John B. Carman & Frederick J. Streng eds., 1989) (no “ultimate, personal God” in Buddhism).

¹¹³ Paul Taylor uses the cheetah's speed to illustrate the differing capacities of non-humans deserving respect. Taylor, *supra* note 39, at 148–49.

¹¹⁴ See Holly Doremus, *Restoring Endangered Species: The Importance of Being Wild*, 23 HARV. ENVTL. L. REV. 1, 13 (1999) (wildness important as feature beyond human contact and control).

¹¹⁵ *But see* MARTIN BUBER, BETWEEN MAN AND MAN 12 (1947) (Routledge, 2002) (non-humans can speak to person and demand answer).

¹¹⁶ See David A. Dana, *Existence Value and Federal Preservation Regulation*, 28 HARV. ENVTL. L. REV. 343, 345 (2004) (existence value as reason for legally protecting natural places that few non-local people ever experience or utilize).

nature they will never see, simply because they are there.¹¹⁷ This kind of value is relatively detached from utility or self-interest.

Environmental appreciation is also odd because sometimes the benefit side of gratitude is missing. Humans suffer from natural forces like storms, volcanoes, and earthquakes. Occasionally wild creatures attack people. Humans contract some diseases from plants, animals, and insects. Although gratitude can selectively target specific environmental blessings, like the cheetah, mountain, or wildflower, the sense of gratitude for all of nature persists in many people who suffer environmental maladies.

Although not altogether absent, gratitude for environmental harms is not as seamless in Western cultural understanding as other cultural frameworks. The route to enlightenment in Buddhist thought includes obstacles and suffering.¹¹⁸ These provide opportunities for growth in compassion and connection.¹¹⁹ Natural forces that harm human interests can be sources of awakening. No matter how harsh, they provide insights into improving destructive human impacts on the environment as well as spiritual development.¹²⁰ When human neglect or activity causes or aggravates environmental harms, as happened with the Dust Bowl of the 1930s, Hurricane Katrina, and the Gulf of Mexico oil spill, painful learning is especially possible. These events are warnings that can jolt policy and legal change, although this is far from inevitable without grateful receptivity. Gratitude for harm does not fit the *quid pro quo* sense of gratitude that dominates common sense Western thinking, because it relies solely on the recipient to convert suffering into benefit. The view is not altogether strange within Western traditions, however. Familiar Calvinist, puritanical ideas about learning from struggle, and the Christian treatment of humility as one antidote to sin,¹²¹ do not depict gratitude as an intentional exchange of benefits. In the environmental context, humans can derive much from adversity, especially about human limits and the dangers of either overly activist stewardship or

¹¹⁷ *Id.* See also Ronald Goetz, *Gratitude for Everything*, 114 CHRISTIAN CENTURY 689 (1997) (discussing *Ephesians* 5:20, “for everything giving thanks”); Arthur Witherall, *The Fundamental Question*, 26 J. PHILOS. RES. 53, 82-83 (2001) (rejoicing and awe for existence of world that “might not have been”); Eckel, *supra* note 112, at 56 (discussing Buddhist “gratitude toward the ultimate source of existence”).

¹¹⁸ See, e.g., Fitzgerald, *supra* note 89, at 124–26 (Buddhist gratitude to those who harm us as providing opportunity for enlightenment); Eckel, *supra* note 112, at 56–57 (gratitude for life’s “vicissitudes” such as Dalai Lama’s gratitude to Communist Chinese for opportunity to love enemies).

¹¹⁹ See MACY, *supra* note 89, at 93–94, 96, 102.

¹²⁰ See *id.*

¹²¹ See, e.g., *Matthew* 10:16, 11:29, 18:4, 23:12 (King James).

complacent passivity. Next I suggest some diverse categories of environmental gratitude that display its richness. These are not exhaustive.

B. Categories of Environmental Gratitude

1. Environment as Teacher

Gratitude for nature as teacher is a pervasive idea in many traditions. It has religious prominence in Buddhism,¹²² Islam,¹²³ Judaism,¹²⁴ and some strains of Christianity.¹²⁵ Environmental ethicists of varied stripes incorporate the idea, including Aldo Leopold,¹²⁶ Paul Taylor,¹²⁷ Rachel Carson,¹²⁸ and John Muir,¹²⁹ to mention familiar Western mentors. Some Native American traditions include thanks to nature as teacher.¹³⁰ Nature writing and poetry also reflect this theme. In just one vivid example, poet and paleontologist, Loren Eisley,¹³¹ expressed hard lessons from nature in a repentant but desperately hopeful poem: “I was

¹²² See Graham Parkes, *Voices of the Mountains, Trees, and Rivers: Kukai, Dogen, and a Deeper Ecology*, in *BUDDHISM AND ECOLOGY* 112, 112, 118, 125 (Mary Evelyn Tucker & Duncan Ryukan Williams eds., 1997) (nature as “source of wisdom”); Donald K. Swearer, *The Hermeneutics of Buddhist Ecology in Contemporary Thailand: Buddhadasa and Dhammapitaka*, in *BUDDHISM AND ECOLOGY* 32, 32–35 (Buddha’s enlightenment depicted under trees and truth-seeking in forests).

¹²³ See, e.g., Nasr, *supra* note 62, at 88–89 (nature as revelation).

¹²⁴ See, e.g., Levine, *supra* note 61, at 50 (learning gratitude and care of earth through natural protections).

¹²⁵ See, e.g., McFague, *supra* note 87, at 43–44, 51, 53, 55 (learning about proper human role through environmental damage, the “big bang” scientific creation story, and study of natural processes like evolution).

¹²⁶ See LEOPOLD, *supra* note 39, at 6–7, 241–43, 251–55 (learning to be citizen of land community through owning a farm, ecological history of human interactions with the land, and “land pyramid”).

¹²⁷ See Taylor, *supra* note 39, at 144, 146, 148–49 (learning interdependence through ecology, evolution, and imaginatively adopting the perspective of each living thing to see its unique value and interests).

¹²⁸ See RACHEL CARSON, *SILENT SPRING* 1–3 (1962) (synthesizing knowledge of harmful effects of DDT in parable of silent world without birds, animals, and fish with hope of avoiding “grim specter” of future).

¹²⁹ See generally JOHN MUIR, *THE YOSEMITE* (Modern Library 2003) (1912) (relating visits to the place and the many spiritual lessons gleaned); John Muir, *The Philosophy of John Muir*, in *THE WILDERNESS WORLD OF JOHN MUIR* 320 (Edwin Way Teale, ed., 1954) (learning that nature wastes nothing and rejoicing in that understanding).

¹³⁰ See, e.g., JOHN (FIRE) LAME DEER & RICHARD ERDOES, *LAME DEER SEEKER OF VISIONS* 278 (1972) (tears of gratitude for spiritual contact with Great Spirit and receiving gift of nature’s powers).

¹³¹ See, e.g., Loren Eisley, *Desperate I Walked*, in *THE INNOCENT ASSASSINS* 25–26 (1973) (describing human harm to environment gleaned from solitary thistle seed floating “the wrong way” toward the city, and expressing desperate hope “for resurrection”).

like the last knowing man, carrying the last feral seed nursed in his hand, the last wild chance in the universe.”

What are nature’s specific “lessons” for which people feel grateful? Scientific and empirical understanding of the natural world is an obvious, direct kind of knowledge.¹³² Ecological understanding is practically useful in agriculture, natural resource extraction, and medicine, for example. Recent valuation of ecological services surfaced with increased knowledge of how ecosystems work and their importance to human functioning.¹³³ This recognition has driven greater legal and policy protections of services on local, national, and international levels.¹³⁴ Moral knowledge is also an offshoot of natural education, making virtue possible. People can adopt a more humble attitude from learning about species limitations.¹³⁵ This helps to correct tendencies to see humanity as separate from, central to, or dominant over the rest of nature.¹³⁶

Such teachings are at once frightening and helpful. Realizing the extent of human intervention in natural processes imposes daunting burdens, as Eislely’s poem expresses: “...how have we come to this: that someone, even I, must think, and not nature, thoughts for the winter sleep of the last thistledown?”¹³⁷ Ecological loss and shame are excruciating and cautionary, as Rachel Carson’s fable of the “silent spring” relates: “No witchcraft, no enemy action had silenced the rebirth of new life in this stricken world. The people had done it themselves.”¹³⁸ These painful metaphors can orient humans toward improving

¹³² See SANDLER, *supra* note 32, at 35 (describing Darwinian knowledge); McFague, *supra* note 75, at 51 (interrelationships of all things through evolutionary processes).

¹³³ E.g., James Salzman, Barton H. Thompson, Jr. & Gretchen C. Dailey, *Protecting Ecosystem Services: Science, Economics, and Law*, 20 STAN. ENVTL. L. J. 309, 310, 312–13, 318 (2001); Robert L. Fischman, *The EPA’s NEPA Duties and Ecosystem Services*, 20 STAN. ENVTL. L. J. 497, 408 (2001); Gretchen C. Daily et al., *Protecting Natural Capital through Eco-System Services Districts*, 20 STAN. ENVTL. L. J. 333, 334–35 (2001); Barton H. Thompson, *Eco-System Services and Natural Capital: Reconceiving Environmental Management*, 17 N.Y.U. ENVTL. L. J. 460, 461, 462 (2008).

¹³⁴ Thompson, *supra* note 133, at 462 (describing local New York City protection of drinking water through regional watershed protection); Fischman, *supra* note 133, at 502 (describing national EPA functional eco-system approach); Thompson, *supra* note 133, at 461 (describing UN Millennium Ecosystem Assessment reporting international decline of services).

¹³⁵ See, e.g., McKibben, *supra* note 48, at 20–21 (reintroducing wolves as reorienting humans to limits).

¹³⁶ See McFague, *supra* note 87, at 43 (describing sin as “assuming one is the center and that all others exist for one’s benefit); LEOPOLD, *supra* note 39, at 240 (“[F]rom conqueror of the land-community to plain member and citizen.”).

¹³⁷ Eislely *supra* note 131, at 126.

¹³⁸ CARSON, *supra* note 128, at 3.

the environment and possible “resurrection.”¹³⁹ They invite humans to perfect personal and collective ecological character.

2. Environment as Healer

A saving grace of harsh environmental lessons is the role of natural experiences in soothing the stresses of human civilization. Ecological exposure can rehabilitate individuals and communities. Psychological and spiritual restoration is a natural bounty prompting gratitude. John Muir is familiar for his promises of refuge and repose to those who seek wilderness in solitude.¹⁴⁰ Contemporary eco-psychologists attribute therapeutic value to the natural world.¹⁴¹ A movement in psychotherapy recognizes environmental causes of modern distress and taps people’s “need to be embedded in and bond deeply with our human tribe, our animal and plant neighbors, and our place” as means to heal pathology in individuals and society.¹⁴² Others have lamented the diminishing role of outdoor play and contacts with nature of children preoccupied with computers and scheduled activities.¹⁴³ Interactions with nature foster creativity, autonomy, and care for place and surroundings and reduce obesity and other health maladies.¹⁴⁴

The healing influence of nature is partly spiritual. The American ideal of wilderness is laden with contrast images of the travails of civilized life, as in Easley’s seed “journeying the wrong way toward the city’s heart”¹⁴⁵ and Muir’s scathing reference to San Francisco’s “miserable dirty streets.”¹⁴⁶ Distinctions

¹³⁹ Easley, *supra* note 131, at 26.

¹⁴⁰ See Muir, *The Philosophy of John Muir*, *supra* note 129, at 313–14, 315, 320 (soothing and healing qualities of natural places).

¹⁴¹ See Theodore Rosack, *Where Psyche Meets Gaia*, in *Ecopsychology: Restoring the Earth, Healing the Mind* 1–17 (Theodore Rosack, Mary E. Gomes & Allen D. Kanner eds., 1995); Mitchell Tomashow, *Ecological Identity: Becoming a Reflective Environmentalist* 13, 15 (1995) (transforming ecological experiences).

¹⁴² Linda Buzzell, *Asking Different Questions: Therapy for the Human Animal*, in *ECOTHERAPY: HEALING WITH NATURE IN MIND* 51 (Linda Buzzell & Craig Chalquist eds., 2009).

¹⁴³ Richard Louv, *Last Child in the Woods: Saving Our Children From Nature Deficit Disorder* 10–13, 48, 117 (2005). See also Edith Cobb: *The Ecology of Imagination in Childhood* 23, 33, 37 (1977) (describing developmental, cognitive, and emotional values of children’s contacts with nature).

¹⁴⁴ COBB, *supra* note 143.

¹⁴⁵ Easley, *supra* note 131, at 25. See also William Cronon, *The Trouble with Wilderness; or, Getting Back to the Wrong Nature*, in *UNCOMMON GROUND: RETHINKING THE HUMAN PLACE IN NATURE* 69, 76–78 (William Cronon ed., 1996) (describing cultural disparagement of civilization).

¹⁴⁶ Muir, *The Philosophy of John Muir*, *supra* note 129, at 312, 319, 320 (describing ills of modern civilization).

between urban and remote, rural places do instill respect for the wild, but they can also conceal human participation in nature and alienate people from everyday, mundane surroundings that require ecological attention and care.¹⁴⁷ Urban ecology, especially, is de-emphasized in the wilderness ideal.¹⁴⁸ The emphasis on “pristine” places is unrealistic because the human touch is ubiquitous. It is elitist in lauding places where access requires leisure and money and disregarding the dire need of many people to utilize their environment for survival.¹⁴⁹ Despite corruptions of the refuge idea, however, the healing role of natural places commonly stimulates gratitude.

3. Environment as Source of Cultural Inspiration

Perpetual explosions of artistic, literary, and other cultural expressions of gratitude for nature are themselves causes for gratitude. If not universal, they are so ubiquitous that it is unnecessary to recount the myriad ways nature is the theme of cultural practices and expressions. The environment can be a cultural unifier as well as an important indicator of the richness of human relationships with their surroundings and each other. Depictions of nature in religion, art, popular media, and music express appreciation while simultaneously attuning perception to new natural riches and human creativity. This perennial source of expression, dating at least to early cave drawings, reveals a common humanity.

The link between environment and culture also manifests the inseparability of human and non-human worlds. The message is that humans and the environment share some fate. This insight offers possibilities to improve human justice along with planetary heritage. It is appropriate to be grateful for such cultural meanings.

4. Environment as Friend

Personal connections to the non-human natural world are among the most treasured germs of thankfulness. Despite numerous cultural, economic, and environmental differences among Native American groups,¹⁵⁰ kinship is one

¹⁴⁷ See Cronon, *supra* note 131, at 85–89 (taking responsibility for home places).

¹⁴⁸ Muir’s disparaging remarks about cities illustrate this devaluation. See Muir, *The Philosophy of John Muir*, *supra* note 129, at 312.

¹⁴⁹ Ramachandra Guha, *Radical Environmentalism and Wilderness Preservation: A Third World Critique*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 338, 341, 344–45 (Louis P. Pojman & Paul Pojman eds., 5th ed. 2008).

¹⁵⁰ See, e.g., J. Baird Callicott, *Traditional American Indian and Traditional Western European Attitudes Towards Nature: An Overview*, in ENVIRONMENTAL PHILOSOPHY 231, 231 (Robert Elliot & Aaron Gare eds., 1983) (acknowledging significant diversity but identifying broad commonalities).

widely shared idea.¹⁵¹ Non-native environmentalists may interpret this relationship as affection for something other.¹⁵² In a kinship tradition, the relationship is closer to identity and continuity, however. The earth on which one treads is composed of the departed.¹⁵³ Black Elk prayed, “Give me the strength to walk the soft earth, a relative to all that is!”¹⁵⁴ The person who contacts another being in dreams or ceremonies can inhabit and become one with that being because every being is unified in spirit.¹⁵⁵

Although again wary of generalizations,¹⁵⁶ so-called “Western” heritage tends to separate humans from the non-human world,¹⁵⁷ which makes coming together less unification than new acquaintance. Yet this different relational connection is valuable as an antidote to alienation. Environmentalists often describe a sense of interrelationship as ethically transforming. They recount climbing a rock face,¹⁵⁸ fleeing yellow jackets,¹⁵⁹ watching a wild wolf die from one’s gunshot,¹⁶⁰ encountering a dead bear,¹⁶¹ or watching a flea suffer,¹⁶² as stories of connection

¹⁵¹ See LAME DEER & ERODES, *supra* note 130, at 149 (roaming souls of dead and “spirit-keeping” ceremonies); NICHOLAS BLACK ELK & JOHN G. NEIHARDT, BLACK ELK SPEAKS 33–36, 183 (2000) (being led into sky by six dead grandfathers and being shown things at center of earth in holy visions); Paula Gunn Allen, *The Sacred Hoop: A Contemporary Perspective*, in NATIVE AMERICAN LITERARY COMPANION 14, 21 (Janet Witalec ed., 1998) (“All Spirit” unifying all beings in living and dynamic oneness). See also *Chief Seattle, Speech to Governor Stevens* (1854), www.historylink.org/essays/output.cfmfile_id=1427 (last visited May 6, 2011) (“ashes of our grandfathers”).

¹⁵² See *Chief Seattle – An Appeal for Life*, 1 CHICKEN LITTLE CHRONICLE No. 6 (Dec. 1989/Jan. 1990) (environmentalist’s version of Seattle speech deemphasizing kinship composition of nature and emphasizing treating animals “as your kin”); Maura Griffin, *Chief Seattle’s Message Actually a Bit More Recent*, in VALLEY NEWS (describing rewrite of Seattle speech by Middlebury College professor who “strengthened the ecological theme”).

¹⁵³ See also *Speech to Governor Stevens*, *supra* note 151 (ground as “ashes” of kin).

¹⁵⁴ BLACK ELK & NEIHARDT, *supra* note 151, at 4.

¹⁵⁵ See Allen, *supra* note 151, at 21 (dynamic circle of all life as one spirit).

¹⁵⁶ See Callicott, *supra* note 150, at 233 (European pluralism yet commonalities).

¹⁵⁷ See *id.* at 231, 236 (general alienation and separation from non-human nature); White, *supra* note 38, at 20 (generalizing Christian view of human mastery and transcendence).

¹⁵⁸ Karen J. Warren, *The Power and the Promise of Ecological Feminism*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 33, 38 (Louis P. Pojman & Paul Pojman eds., 2008)

¹⁵⁹ McKibben, *supra* note 48, at 16–17.

¹⁶⁰ LEOPOLD, *Thinking Like a Mountain*, in A SAND COUNTY ALMANAC, *supra* note 39, at 137, 138.

¹⁶¹ Muir, THE PHILOSOPHY OF JOHN MUIR, *supra* note 129, at 313.

¹⁶² Arne Naess, *Self-Realization: An Ecological Approach*, in THE ENVIRONMENTAL ETHICS & POLICY BOOK 268, 269 (Donald VanDeVeer & Christine Pierce eds., 3d ed. 2003).

and moral progress. Empathy permits a person to imagine the perspective of a being or thing, potentially enlarging perspective.¹⁶³

Empathy for non-humans always carries risks of distortion because humans can never shed boundaries of species existence, including constraints of language and cognition.¹⁶⁴ Still, narrators share the conviction that encounters enhance respect and affection for the natural world and lead to more ethical conduct.¹⁶⁵ Gratitude is due for the pleasure and wisdom of such contacts and for concomitant moral development. Moral grief and disgust over oil spoils in the Gulf of Mexico acknowledged losses of things personally valuable well beyond economics.

5. Environment as Place

Related, but worthy of separate mention, is overall gratitude for places, a strongly cross-cultural idea. Here affection is mixed with identity and belonging and a sense of responsibility to maintain or fix regional conditions.¹⁶⁶ This kind of gratitude can even be planetary, as in the idea of earth as home.¹⁶⁷

“Where are you from?” is one of the first questions people ask each other. Knowing these facts seems central to understanding a person. We expect someone from an Iowa farm to express different sensibilities than someone

¹⁶³ See generally Nancy Eisenberg & Janet Strayer, *Critical Issues in the Study of Empathy*, in EMPATHY AND ITS DEVELOPMENT 5 (Nancy Eisenberg & Janet Strayer eds., 1987); Mark H. Davis et al., *Effect of Perspective Taking on the Cognitive Representation of Persons: A Merging of Self and Other*, 70 J. PERSON. & SOC. PSYCHOL. 713, 719 (1996).

¹⁶⁴ See Lee, *supra* note 46, at 31 (inherent limits of cognitive and linguistic framework). See also Richard Delgado, *Rodrigo's Eleventh Chronicle: Empathy and False Empathy*, 84 CAL. L. REV. 61, 70–71 (1996) (describing dangers of projection and misunderstanding in empathy toward other humans).

¹⁶⁵ Arne Naess's observations of a suffering flea illustrate this well in that Naess had not previously felt any connection to this kind of creature. See Naess, *supra* note 162, at 269.

¹⁶⁶ See, e.g., Leslie Marmon Silko, *Landscape, History, and the Pueblo Imagination*, in INQUIRY: A CROSS-CULTURAL READER 281, 283–84 (1993) (describing Pueblo Indian holistic connection with place); Jon K. Abdoney, *Environmental Ethics: The Geography of the Soul*, 27 CUMB. L. REV. 1217 1231–36 (1996–97) (describing meaning humans derive from places); FRANK POMMERSHEIM, BRAID OF FEATHERS: AMERICAN INDIAN LAW AND CONTEMPORARY TRIBAL LIFE 11, 31 (1995) (Indian reservations as places of history and aspiration); David Landis Barnhill, *Great Earth Sangha: Gary Snyder's View of Nature as Community*, in BUDDHISM AND ECOLOGY 187, 190–93 (Mary Evelyn Tucker & Duncan Ryuken Williams eds., 1997) (Buddhist roots of “bioregional” unity of person and place).

¹⁶⁷ See Barnhill, *supra* note 166, at 193; Dalai Lama, *A Tibetan Buddhist Perspective on Spirit in Nature*, in SPIRIT AND NATURE 112, 117 (Steven C. Rockefeller & John C. Elder eds., 1992); McFague, *supra* note 87, at 52, 56.

raised in Manhattan. Yet “home” is a common human ideal. We go “there” to build close relationships and also for spiritual nourishment and psychological comfort. Even a “there” infested with conflict and stress can provoke contra-factual longing and images of repose. “Home for the holidays” has inspired popular American culture because of the power and accessibility of that idealized image.

Gratitude for place is a thread of personal identity because life narratives have location. Place gratitude is less geographical than part of personhood and culture. Place integrates humans with the rest of nature. Place-based ethics is compatible with virtue ethics in capturing the emotive, relational, and holistic dimensions of personal and collective moral identity. Recently the Environmental Protection Agency declared place-orientation central in regulatory protection of environmental systems and services.¹⁶⁸

6. Environment as Material Sustainer

This kind of gratitude *seems* to need minimal explanation. It seems obvious to feel grateful for material benefits that make human functioning and survival possible. People surely owe appreciation for the natural resources like water and minerals that sustain them. Ecological services like the wetlands that protect coastlines and the pollinators that make food bountiful undeniably support human safety and sufficiency.¹⁶⁹

Yet people’s gratitude for these resources is all too sporadic and fleeting. They take for granted tangible goods the environment provides, such as medicines, building materials, and crops. They are even less prone to notice and appreciate environmental processes that support daily human flourishing until these are gone or threatened.

National and international environmental law bypassed direct protection of these services until urgency tipped complacency into a belated sense of crisis. Recent work on ecological services emphasizes the necessity of shifting from legal protection of discrete entities like air, water, and animals to safeguarding

¹⁶⁸ See Fischman, *supra* note 133, at 502.

¹⁶⁹ See John Copeland Nagle, *From Swamp Drainage to Wetlands Regulation to Ecological Nuisances to Environmental Ethics*, 58 CASE W. RES. L. REV. 787, 792–98, 810 (describing progression in cultural and legal attitudes about wetlands from “ecological nuisances” to “ecosystem services”). See also Katherine Ewel, *Water Quality Improvement by Wetlands*, in NATURE’S SERVICES: SOCIETAL DEPENDENCE ON NATURAL ECOSYSTEMS 329–32 (Gretchen C. Daily ed., 1997) (discussing usefulness of wetlands).

and restoring degraded systems and processes that cleanse or water and air,¹⁷⁰ curb soil erosion,¹⁷¹ pollinate crops,¹⁷² control insects,¹⁷³ limit the ravages of storms and floods,¹⁷⁴ regulate climate,¹⁷⁵ and provide reservoirs of genetic diversity.¹⁷⁶ Learning about the instrumental value and fragility of these functions and explicitly acknowledging gratitude for those can move human attitudes beyond entitlement toward respect and active responsibility.

7. Environment as Being

From concrete sustenance to abstract spiritualism, the ultimate subject of environmental gratitude is gratitude for everything, for all there is. This gratitude is partly personal. It encompasses thanks for one's own existence on earth, recognizing fortune in the possibility of things otherwise. Respect for existence is an important foundation of responsibility for future generations of humans and other beings. Ethicist Holmes Rolston, III depicts life as a river running through time and place.¹⁷⁷ Leaving a positive mark is a way of touching immortality.

Such diffuse gratitude is as removed from instrumental concerns as perhaps the emotion can be. It extends beyond the teaching and healing that enhance human civilization. Gratitude for the value of being helps to explain the "existence value" people place on distant places and forms of life they almost

¹⁷⁰ See Ewel, *supra* note 169, at 330–31 (describing wetland cleansing function); Fischman, *supra* note 133, at 530 (describing Office of Federal Activities 1999 guidelines on ecological processes as preserving clean air and water); Salzman et al., *supra* note 133, at 310 (describing ecological services of purifying water and air).

¹⁷¹ See, e.g., Norman Myers, *The World's Forests and their Eco-System Services*, in *NATURE'S SERVICES: SOCIETAL DEPENDENCE ON NATURAL ECOSYSTEMS* 215–35, 217–19 (Gretchen C. Daily ed., 1997).

¹⁷² See Gary Paul Nabhan & Stephen L. Buchmann, *Services Provided by Pollinators*, in *NATURE'S SERVICES: SOCIETAL DEPENDENCE ON NATURAL ECOSYSTEMS* 133–50, 133–35 (Gretchen C. Daily ed., 1997).

¹⁷³ See Rosamond L. Naylor & Paul R. Erlich, *Natural Pest Control Services and Agriculture*, in *NATURE'S SERVICES: SOCIETAL DEPENDENCE ON NATURAL ECOSYSTEMS* 151–74, 151, 155, 162, 167 (Gretchen C. Daily ed., 1997).

¹⁷⁴ See Susan E. Alexander, Stephen H. Schneider & Kalen Lagerquist, *The Interaction of Climate and Life*, in *NATURE'S SERVICES: SOCIETAL DEPENDENCE ON NATURAL ECOSYSTEMS* 71–92, 82–86 (Gretchen C. Daily ed., 1997) (describing climate effects on weather events).

¹⁷⁵ *Id.* See also Thompson, *supra* note 133, at 473 (mentioning carbon storage as one service).

¹⁷⁶ Daily et al., *supra* note 133, at 338–39 (describing biosphere experiment and losses of species valuable to pollination and pest control); Salzman et al., *supra* note 133, at 322 (describing Madagascar policy to preserve biodiversity and varied service benefits).

¹⁷⁷ Holmes Rolston, III, *The River of Life: Past, Present, and Future*, in *RESPONSIBILITIES TO FUTURE GENERATIONS* 123–37 (Ernest Partridge ed., 1981) (metaphor of river as organic flow unifying time).

certainly will never see, simply because they are there.¹⁷⁸ People care about elusive beings, like the snow leopards of the Himalayans, not because they anticipate aesthetic access or some untapped utility.¹⁷⁹ They fret over damage to life and processes in the far depths of the Gulf of Mexico even though they have no access to those mysterious places. They simply value these things for themselves, because they exist.

This value explains why the “non-anthropocentric” emphasis of environmental ethics has not outlived its evolutionary phase, as some have suggested.¹⁸⁰ Existence valuation does not collapse into anthropocentrism. While any valuation implies a human to perceive value, the distinction between something valuable *to* humans and *for* humans is meaningful ethically.¹⁸¹ How a person treats her surroundings depends on whether she sees them as instrumentally useful or pleasing, or worthy in their own right. That it takes a person to perceive inherent worthiness does not reduce that worth to her interests.

Thus environmental gratitude is multi-faceted and complex. Its plural objects are as diverse as local water supplies necessary for life in arid places, sublime mountains, processes and systems that support life, forces like earthquakes that teach something through struggle, affectionate natural connections, place belonging, and gratitude for being itself, for all there is. The latter gratitude is as diffuse as gratitude can be. Yet, it is the most sustaining and motivating type of gratitude.

VI. IMPEDIMENTS TO ENVIRONMENTAL GRATITUDE AS A VIRTUE

A. Gratitude as a Challenging Emotion

Experiencing a moral emotion like compassion or gratitude is not enough for virtue. A virtue is a disposition to have positive feelings along with a fairly reliable tendency to make wise decisions on that basis and excellence in that

¹⁷⁸ See Dana, *supra* note 116, at 345 (protecting the value of inaccessible things and places).

¹⁷⁹ See Douglas H. Chadwick, *Snow Leopards* (June, 2008), <http://ngm.nationalgeographic.com/2008/06/snow-leopards/chadwick-text/1> (last visited May 6, 2011) (describing elusive and endangered cats in native habitat).

¹⁸⁰ See, e.g., Norton, *Which Morals*, *supra* note 37, at 83–85 (advocating shift from theoretical debate to practical compromise).

¹⁸¹ See Rolston, *Naturalizing Values*, *supra* note 43, at 110 (distinguishing “anthropogenic” from “anthropocentric” views and arguing that human perspective does not imply human centrality or superiority).

propensity.¹⁸² Environmental virtues are difficult to cultivate and sustain because humans have so many interests in using the natural world to serve them individually and collectively, here and now. It is also too easy to take unseen processes for granted and free for those so far advantaged by their riches. For those who barely subsist, exploiting immediate surroundings is inevitable and necessary.

Threshold capacities for emotional virtues are not universal and differ in quality and degree, even in those relatively free of want. Some people experience gratitude only fleetingly. Others experience some common forms of gratitude, while more challenging kinds elude them so completely that they never detect something missing. Most extreme are people with psychopathic tendencies who do not feel positive moral emotions like sympathy, compassion, and perhaps gratitude much at all.¹⁸³ They may experience empathy, narrowly defined as ability to imagine the perspective of another,¹⁸⁴ but that perceptual acuity can be used to harm someone with detectable weaknesses. The environmental sociopath might recognize but scoff at others' anguish over environmental harms. Many challenges stall the development of moral emotions like gratitude.

B. Paving Paradise and Specific Environmental Vices

Environmental vice is a direct impediment to even direct gratitude for benefits. The counterpart of virtue, a vice is a stable trait that tends to wreak harm or turn one toward unworthy pursuits.¹⁸⁵ As others have argued, hubris about the centrality and privileges of humanity leads to disrespect and mistreatment or neglect of the natural world.¹⁸⁶ Philosopher Thomas Hill poses the question, what sort of person would do a thing like that, about someone who paved his yard to eliminate the inconveniences of tending it.¹⁸⁷ Part of Hill's answer is that lack of humility is an environmental vice.¹⁸⁸ A life of arrogance is one vice not

¹⁸² See, e.g., ARISTOTLE, *ETHICS*, *supra* note 1, Bk. II.6; SWANTON, *VIRTUE ETHICS*, *supra* note 5, at 1–2; HURSTHOUSE, *ON VIRTUE ETHICS*, *supra* note 5, at 13.

¹⁸³ See, e.g., David Shoemaker, *Moral Address, Moral Responsibility, and the Boundaries of the Moral Community*, 118 *ETHICS* 70, 77–78, 80, 82 (2007) (psychopath outside moral community because incapable of complex moral emotions and responses).

¹⁸⁴ See *id.* at 80, 82 (“affective,” not cognitive, deficiency in psychopaths).

¹⁸⁵ See, e.g., SWANTON, *VIRTUE ETHICS*, *supra* note 5, at 73–75 (treating vice as persistent failure in leading life morally).

¹⁸⁶ See McFague, *supra* note 87, at 43 (sin as seeing oneself as central); Nasr, *supra* note 62, at 89, 91 (sin as forgetting or overlooking sacred quality of God in nature).

¹⁸⁷ Thomas E. Hill, Jr., *Ideals of Human Excellence and Preserving Natural Environments*, 5 *ENVTL ETHICS* 211, 211 (1983).

¹⁸⁸ *Id.* at 222–24 (failure to appreciate limits is vice whereas humility, gratitude, and sensitivity are environmental virtues).

conducive to even basic environmental gratitude for personally beneficial resources.

The giving features of nature too often lead to vice. We view the “apron” of Mother Nature as full of inexhaustible treasures.¹⁸⁹ I will not belabor the ills of treating non-human nature as a mere commodity for human benefit, a view now indicted across perspectives.¹⁹⁰ Suffice it to say that diverse environmentalists not explicitly aligned with virtue ethics frequently decry the traits of arrogance and hubris.¹⁹¹ They concur that assumptions about human superiority and centrality are defective.¹⁹²

Still, pernicious ingratitude is so embedded in the cultures and economies of many developed countries that it escapes notice. Recognizing blind spots within consumptive cultures is an initial challenge to individual and collective character. More formidable challenges are to remake the institutions and societal structures that perpetuate ingratitude and other vices.¹⁹³ For example, some religious environmentalists have insisted on reinterpreting texts such as Genesis that some read as God’s license to dominate and subdue non-human nature as, instead, calling forth obligations of stewardship and care.¹⁹⁴ Perhaps less successful are challenges to inject environmentalism into corporations, but some progress is afoot in the “corporate social responsibility” (CSR) movement

¹⁸⁹ Greta Gaard, *Ecofeminism and Native American Cultures: Pushing the Limits of Cultural Imperialism?*, in *ECOFEMINISM: WOMEN, ANIMALS, NATURE* 301, 302–03 (Greta Gaard ed., 1993).

¹⁹⁰ See, e.g., LEOPOLD, *supra* note 39, at 258–61 (“A-B Cleavage” between commodity-based view of land and “something broader”); NORTON, *UNITY*, *supra* note 37, at 1–6 (illustrating division between economic and broader valuation of nature through anecdote of girl with sand dollar); Regan, *supra* note 39, at 83, 89 (rejecting view of animals as resource in favor of inherent value); White, *supra* note 38, at 17–18 (tracing human exploitation of nature to Western dualism between man and nature that led to assumptions of mastery).

¹⁹¹ See, e.g., White, *supra* note 38, at 21; AL GORE, *EARTH IN THE BALANCE: ECOLOGY AND THE HUMAN SPIRIT* 241 (1992); Warren, *supra* note 158, at 40.

¹⁹² See Warren, *supra* note 158, at 40. See also McFague, *supra* note 87, at 43, 54; Nasr, *supra* note 62, at 89, 93, 95, 102; Schorsch, *supra* note 87, at 30, 33, 36; Taylor, *supra* note 39, at 148–49, 153; LEOPOLD, *supra* note 39, at 240, 244, 263–64.

¹⁹³ Environmentalists owe a debt to Murray Bookchin, who reminded them that ecological problems must be examined in their larger social and economic contexts and steered them away from monolithic condemnations of humanity. Bookchin traces environmental exploitation largely to some humans seeking power over other humans. See Murray Bookchin, *Social Ecology Versus Deep Ecology*, in *ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION* 241, 243, 245, 250–51 (Louis P. Pojman & Paul Pojman eds., 5th ed. 2008) (recommending viewpoint of “social ecology”).

¹⁹⁴ See, e.g., McFague, *supra* note 87, at 47–49 (recommending changes in imagery of God as father and king); Schorsch, *supra* note 87, at 33–34 (reinterpreting Genesis view of Adam as “steward” and not conqueror).

despite some self-serving promotions that may not amount to more than “green washing.”¹⁹⁵

C. Self-Interest

Without wading into debates on human capacities for social cooperation or altruism, unrestrained self-interest is an obvious general impediment to environmental gratitude. It allows people to preoccupy themselves with the present, overlook injustice, and squander natural resources for economic gain. When people feel entitled to environmental resources, they fail to experience thankfulness that leads to vigilance and responsibility on personal and collective levels. Although tangible environmental sustenance is an obvious foundation for gratitude, the emotion often succumbs to egoism.

D. Ignorance and Ingratitude

Gratitude too often fails to surface because of ignorance, both innocent and willful. An impediment to gratitude is insufficient knowledge of ecological processes and the impacts of human conduct on those systems. This vice includes both deficiencies in education and lack of curiosity about the non-human world. It encompasses unwillingness of the initiated to gather further information about wasteful and damaging behavior. Some people resist information about the cruel and wasteful methods of animal agriculture, for example. “Don’t tell me about that!” they say, so information cannot alter their market choices. They avoid waste facilities, resting at best on sporadic recycling. They derive comfort from a veil in most matters of collective consumption, invoking reasoning like, “my efforts are a drop in the bucket,” or “Why should I carpool when everyone else drives solo?” They deny any duty to seek out ecological information and make consumer and political decisions on that basis. An example of formalized collective ignorance is the historical American policy toward swamps. Once maligned as filthy magnets for insects and disease, the policy was to drain these areas without realizing their value as ecological services protecting coastlines and water quality.¹⁹⁶

E. Environmental Injustice

Social injustice is a formidable obstacle to the environmental virtue of gratitude. The “environmental justice movement” in America documents

¹⁹⁵ See, e.g., Ashley Dawson, *Climate Justice: The Emerging Movement Against Green Capitalism*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 81–97, 482 (Louis P. Pojman & Paul Pojman, eds., 6th ed. 2012).

¹⁹⁶ Nagle, *supra* note 169, at 793, 797–98.

disproportionate presence of unhealthy and unsafe facilities where poor and racially diverse people live and work.¹⁹⁷ Indian reservations are favored sites for toxic waste, sometimes welcomed by residents desperately seeking jobs and community services as a tradeoff.¹⁹⁸ Some criticize environmentalists for paternalistic attitudes toward those who accept such facilities, defending the right of adults to make autonomous determinations of their own best interests.¹⁹⁹ Despite sound reminders of autonomy, severe economic and other hardships can induce people to make decisions even they recognize as precarious.²⁰⁰

Uneven distribution of environmental benefits and harms according to race and wealth is structural injustice. Developers would be forced to innovate more safeguards in their projects if race and class factors did not reduce project costs. American institutions like corporations and government rely on disparities of wealth to pursue easier and cheaper options. They locate toxic operations in areas where property values are low and community stressors are high, challenging meaningful local resistance.²⁰¹

Distributive justice problems also plague global environmentalism. Developing countries legitimately rail at the “hypocrisy” of “Northern” nations that decry global threats like rain forest destruction, while themselves ferociously consuming.²⁰² Critics have treated the American preoccupation with preserving wilderness as inept to address the main causes of environmental destruction in

¹⁹⁷ See, e.g., Robert D. Bullard, Paul Mohai, Robin Saha, & Beverly Wright, *Toxic Waste and Race at Twenty: Why Race Still Matters after All of These Years*, 38 ENVTL. L. 371, 371–72 (2008) (approving progress but reporting continuing toxics disparities based on race and income).

¹⁹⁸ See Winona LaDuke, *All our Relations: Struggles for Land and Life*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 565–68, 566 (Louis P. Pojman & Paul Pojman, eds., 2012); Nancy B. Collins & Andrea Hall, *Nuclear Waste in Indian Country: A Paradoxical Trade*, 12 LAW & INEQ. 267, 274–75 (1994) (sometimes facilities favored as means to economic self-determination); Noah Sachs, *The Mescalero Apache Indians and Monitored Retrievable Storage of Spent Nuclear Fuel: A Study in Environmental Ethics*, 36 NAT. RESOURCES J. 641, 642 (1996) (favorable tribal vote for nuclear storage facility on reservation).

¹⁹⁹ See Sachs, *supra* note 198, at 642, 650, 654–56 (author opposing nuclear waste storage project for environmental reasons but criticizing paternalistic arguments about tribe’s ignorance and weaknesses in decision to host facility).

²⁰⁰ See Collins & Hall, *supra* note 198, at 275–76 (citing intra-tribal disagreement about nuclear waste project and opposition based on risks to Indian values and culture).

²⁰¹ See *id.* at 269–70 (concerns about low political power and disproportionate burdens on tribes).

²⁰² See Alasdair Gunn, *Environmental Ethics and Tropical Rain Forests: Should Greens Have Standing?*, 16 ENVTL. ETHICS 21, 32–35 (1994) (hypocritical former colonial powers preaching rain forest protection while not curbing consumption).

much of the world, which are related to wars and poverty.²⁰³ Where sustenance is a daily challenge, preservation must accommodate using the land to satisfy basic needs.²⁰⁴ Calls to environmental gratitude should not be misanthropic or reflexively “hands off.” Humans are biologically constituted to use and transform their surroundings. The suffering and deprivation of many existing humans stem from the uneven and unjust availability of resources needed for meager existence.²⁰⁵ Whereas temperance and restraint may be an ethic culturally apt for the privileged, it is less suited to those who barely survive.²⁰⁶ Until collective gratitude prompts societal and global efforts to reduce glaring human injustice and exploitation, people should not expect the virtue of environmental temperance to spread cross-culturally. On the level of nations, it is similarly unjust for developed countries, or rapidly developing countries with very high carbon emissions,²⁰⁷ to refuse extra burdens in international environmental agreements on matters like climate change.

F. Moral Misfortune

Beyond the vagaries of distributive justice, sheer luck also plays a role in the development of environmental gratitude and, indeed, all virtues.²⁰⁸ Birth to parents who inculcate positive values is good fortune.²⁰⁹ Although upbringing is not as determinative as Aristotle believed,²¹⁰ it surely gives the morally fortunate a kick-start and the unlucky something to overcome. The child of a virulently

²⁰³ See Guha, *supra* note 149, at 341, 344–55.

²⁰⁴ See *id.* at 344 (mentioning Chipko, or “tree-hugging” movement to halt deforestation in India and arguing for sustainable and equitable uses of environment). See also Vandana Shiva, *Development as a New Project of Western Patriarchy*, in REWEAVING THE WORLD: THE EMERGENCE OF ECOFEMINISM 189, 191 (Irene Diamond & Gloria Fenman Orenstein eds., 1990) (describing biased Western views of sustenance economies based on natural resources as “unproductive”).

²⁰⁵ See, e.g., Guha, *supra* note 149, at 341, 344 (describing global inequities in access to resources and environmental burdens); Bookchin, *supra* note 193, at 249–51 (describing differences in positions and power and recommending that environmentalists address basic human needs).

²⁰⁶ See, e.g., Schorsch, *supra* note 87, at 29 (“prosperity, and not poverty” source of Western environmental problems).

²⁰⁷ There should not be a rigid division between developed and developing. It is appropriate, for example, that China has accepted some burdens as a developing country because its emissions are highest in the world. See Elisabeth Rosenthal, *China Increases Lead as Biggest Carbon Dioxide Emitter*, THE N.Y. TIMES, June 14, 2008, <http://www.nytimes.com/2008/06/14/world/asia/14china.html>.

²⁰⁸ See, e.g., SWANTON, VIRTUE ETHICS, *supra* note 5, at 64, 89; HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 51, 102, 116–17; Michael E. McCullough, *Parent of the Virtues? The Prosocial Contours of Gratitude*, in THE PSYCHOLOGY OF GRATITUDE 123, 127 (Robert E. Emmons & Michael E. McCullough eds., 2004).

²⁰⁹ ARISTOTLE, ETHICS, *supra* note 1, Bk. I.4, II.3 (discussing importance of upbringing and habituation).

²¹⁰ *Id.*

racist father must expend deliberate efforts and courage to create conditions that others take for granted.²¹¹ The same is true of one exposed to grossly deficient environmental sensibilities and habits.

Even the most virtuously disposed person can encounter situations that force him to sacrifice his virtue. Moral capacities may never fully develop if accidents, disease, or human abuses stand in the way. Few may ever face the starkness of “Sophie’s choice” to select one child for the gas chamber to spare the other.²¹² Still, everyday life is fraught with situational compromises. A workplace decision not to speak out on an issue of moderate importance to preserve persuasive capital for another day is one example. So is a parental decision to devote singular attention to an autistic child, conceding the unmet interests of the other children. Environmental choices are similarly constrained. A student raised in a community economically dependent on coal production described the regional challenges of acknowledging problems of emissions and extraction. In his community, courage is a vital environmental virtue.

G. Organizational Phenomena

Except for personal lifestyle choices, environmental decision-making occurs in organized groups like governments, corporations, and NGOs. Thus it is vital to understand the effects of organizational structures on morality that social psychologists and others have documented. Modern bureaucracies compartmentalize tasks, and this shrinks workers’ perceptions about their personal responsibility.²¹³ Being in the presence of others dilutes personal inclinations to assist people in evident need.²¹⁴ Peers increase tolerance for risk,²¹⁵ and alter judgments of fact that ordinarily would not be doubtful.²¹⁶

²¹¹ James von Brunn’s son, Erik, rejected his father’s extreme racism and apologized for his father’s killing of a guard at the Holocaust Museum. *See supra* note 96.

²¹² *See* SWANTON, VIRTUE ETHICS, *supra* note 5, at 247–48 (claiming that Sophie’s repellent choice might be “virtuous overall” given the circumstances of acting).

²¹³ *See* John P. Sabini & Maury Silver, *Destroying the Innocent with a Clear Conscience: A Sociopsychology of the Holocaust*, in MORALITIES OF EVERYDAY LIFE 55, 62–63 (1982) (distinguishing moral and technical responsibility); ELIZABETH WOLGAST, ETHICS OF AN ARTIFICIAL PERSON: LOST RESPONSIBILITY IN PROFESSIONS AND ORGANIZATIONS 66–67, 143 (1992) (sense of personal agency needed to avoid diffusion of responsibility).

²¹⁴ *E.g.*, Russell D. Clark III & Larry E. Word, *Why Don’t Bystanders Help: Because of Ambiguity?*, 24 J. PERS. & SOC. PSYCHOL. 392, 393, 399 (1972) (subjects in groups less apt to address emergency in adjacent room).

²¹⁵ Darl J. Bem, Michael A. Wallace & Nathan Kogan, *Group Decision Making Under Risk of Aversive Consequences*, 1 J. PERS. & SOC. PSYCHOL. 453, 453, 458–59 (1962) (enhancing risky behavior); Kenneth D. MacKenzie, *An Analysis of Risky Shift Experiments*, 6 ORG. BEHAV. & HUM. PERF. 283, 283 (1971).

Such phenomena have negative implications for the environment in dampening personal accountability and lowering the moral threshold for institutional decisions. They neutralize constraints on behavior, which alters character over time. Some “situationist” critics of virtue ethics have denied the existence of character itself, citing psychological experiments showing situational factors to be more influential.²¹⁷ Although this conclusion belies the common sense significance of traits, “situationism” is a useful reminder that external circumstances potently influence morality.

The incremental and negligible contributions a single individual makes to environmental problems also deter a sense of personal responsibility. Climate change exemplifies this. A person acts innocently in driving to work, yet the combined behavior of many doing the same adds up to serious emissions.²¹⁸ Minor and thoughtless wrongs are hard to notice, so actors feel blameless despite contributing to harm.²¹⁹ “Why should I change my conduct if everyone else persists in their ways? I can’t change our culture!” These overwhelming feelings of futility spawn “the bone weariness of the damned.”²²⁰

In short, many factors inhibit environmental virtues. Vice is the most direct and potent obstacle. Ignorance, injustices, upbringing, self-interest, organizational structures, and circumstantial vicissitudes also obstruct development of virtue. Much more than morality shapes character.

VII. THRESHOLD ENVIRONMENTAL GRATITUDE TO COLLECTIVE VIRTUE

A. The Individual Path to Virtuous Environmental Gratitude

Now imagine a person endowed with the capacity for environmental gratitude, probably true of most people. This makes virtue possible but hardly inevitable. Gratitude can be flaccid and fleeting. A grateful attitude can spawn overconfidence in one’s current level of understanding or instill righteousness about

²¹⁶ Sabini & Silver, *supra* note 213, at 84–85 (describing results of Asch experiment on line length).

²¹⁷ See John M. Doris, *Situations and Virtue Ethics*, 32 NOUS 504, 504, 506, 507 (“situationist” psychology a more reliable explanation than virtue approaches). *But see* Rachana Kamtekar, *Situationism and Virtue Ethics on the Content of Our Character*, 114 ETHICS 458, 458, 460 (2004) (distinguishing “stereotypical” dispositions denied by “situationist social psychologists” from virtue dispositions that employ practical reason).

²¹⁸ Steve Vanderheiden, *Climate Change and the Challenge of Moral Responsibility*, 32 J. OF PHILOS. RES. 85, 86–87 (2007).

²¹⁹ *Id.* at 88.

²²⁰ GORE, *supra* note 191, at 241.

one's sensibilities. What distinguishes virtuous environmental gratitude from rudimentary responses?

The relationship of environmental gratitude to other traits, especially wisdom, is essential. A wise and virtuous balance requires experienced contextual judgment and ongoing reflection. A well-meaning, grateful person can relax into passivity if he lacks courage and persistence, for example. Feeling thankful may prevent him from intentionally inflicting harm, but that restraint will not solve environmental challenges that demand collective intervention. Injurious climate change illustrates this. The status quo will produce irreversible losses of ecological services like wetlands, biodiversity, and more. Over-gratitude for present conditions could delay remedial measures.

Practical reason exposes such folly and equips humans to ascertain and select interventions most helpful. Gratitude directs reason to probe and experiment. Collectively, the practical ability to apply knowledge and resources to particular problems makes legal and social policy more effective. Emotive components of practical reasoning include gratitude. On the public level this motivation translates into "political will." It is a virtue fusing heart and head.²²¹ Gratitude helps to sustain moral wisdom.

Virtuous dispositions improve moral judgment in particular circumstances. The virtuous person sustains motivation to pursue the right things and act well on most occasions.²²² According to Aristotle, experience is necessary for virtuous development "for one swallow does not make a spring...."²²³ Wise people display excellent habits of perception, attitudes, and conduct.²²⁴ Aristotle's person of finest character judges and behaves well spontaneously.²²⁵ This is because virtue supports eudaimonia, often called happiness but better captured as flourishing through realizing potential.²²⁶ Aristotle's virtue is pleasurable. Some have rejected eudaimonistic views on the ground that acting virtuously is

²²¹ See ARISTOTLE, ETHICS, *supra* note 1, at Bk. II.3 (pleasure in doing virtuous acts).

²²² *Id.* (taking pleasure in virtuous acting is sign that virtue is acquired).

²²³ *Id.* at Bk. I.7. See also *id.* at Bk. II.1 (virtue acquired through habit).

²²⁴ *Id.* at Bk. I.3 (inexperience and youth insufficient for good conduct and judgment). See also HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 59 (explaining Aristotle's view of youthful inexperience as indicating difficulty of obtaining virtue).

²²⁵ See ARISTOTLE, ETHICS, *supra* note 1, at Bk. X.7 (life in accordance with virtue as happy and pleasurable).

²²⁶ See *id.* See also HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 10 ("well-being" as closer translation).

sometimes hard and results in suffering.²²⁷ Yet Aristotle never imagined a happy life free of hardship, but one of contentment overall.²²⁸ Virtue is not perfection but overall excellence despite lapses.²²⁹

Even moderate virtue is daunting in the complex environmental context, where short-term and instrumental concerns dominate. Most cultures and traditions produce environmental heroes, nonetheless. These are people who exemplify some particular or overall environmental virtue. In America, familiar figures on almost everyone's list are Aldo Leopold, John Muir, and Rachel Carson. Religious traditions have their own environmental exemplars, for example, Saint Francis of Assisi within Roman Catholicism, a "patron saint of ecologists."²³⁰ Buddha, Mohammed, and Christ are probably the greatest environmentalists within their respective traditions because of their shared message of reverence for nature.

Knowledge acquisition is pragmatic in the environmentally virtuous person, who is motivated to work on solutions, and habituated to assess and revise personal attitudes and conduct in keeping with progressing understanding. She is disposed to experience environmental losses and suffer shame for human-inflicted damage. She is likely to feel personal guilt for deviations in personal habits, like laziness about consumptive temptations. She is resolved to correct faults and work toward more widespread improvements at the community, societal, and even global levels when her capacities permit. Yet she learns to live with ambiguities and imperfections without becoming reckless or succumbing to "bone-weariness."²³¹ She is hopeful about the legacy of current humans while avoiding complacency about success.²³² She recognizes the constraints of culture and individual capacity. She finds ways to establish environmental priorities while remaining open to other meaningful projects. She recognizes that environmental evangelism can alienate others and be counter-productive. She persuades with sensitivity and engages in self-reflection after open dialogue.

²²⁷ See, e.g., HURSTHOUSE, ON VIRTUE ETHICS, *supra* note 5, at 72–74 (some "irresolvable dilemmas" that produce regret and mar the life of a virtuous person); SWANTON, VIRTUE ETHICS, *supra* note 5, at 67 (some virtuous acts painful).

²²⁸ ARISTOTLE, ETHICS, *supra* note 1, at Bk. I.7, Bk. X.4, 5 (pleasure and happiness not continuous and treated as a whole).

²²⁹ See SWANTON, VIRTUE ETHICS, *supra* note 5, at 247 (discussing idea of overall virtue despite making repellent choices).

²³⁰ White, *supra* note 38, at 21.

²³¹ GORE, *supra* note 191, at 241.

²³² MACY, *supra* note 89, at 192–93 (hoping for future but answering "summons").

B. The Organizational Path to Environmental Gratitude

People also distinguish even loosely organized groups for environmental virtue (or vice) in particular matters, for example, the Chipko women of India who bodily protested logging by fastening themselves to trees.²³³ They also judge the collective character of formal environmental groups based on missions and tactics.²³⁴ For example, some disparage PETA for taking extreme positions in defense of animals,²³⁵ or Earth First for the strategy of sometimes violating laws.²³⁶ Some commend Defenders of Wildlife for its willingness to compromise and reach practical accommodations on such issues as wildlife

²³³ See, e.g., Guha, *supra* note 149, at 344 (describing Chipko movement in India as questioning industrial impacts on the sustenance of local people).

²³⁴ This assertion raises a complex question: is it meaningful to say a group has character? Or is this merely an elliptical way of saying that each individual has character adding up to “group” character in the aggregate? This is not a forum to rehash this lengthy debate. Suffice it to say that I side with those attributing traits to organized groups because the degree and type of power people have acting in concert under structured conditions is qualitatively different from any individual, or the sum of individuals. Thus the moral implications of organizational actions are special and important to address. Although these differences are pronounced in large and highly structured groups like corporations, they are somewhat present in any formal organization. Indeed, people often formalize their associations for the very purpose of enhancing their influence. Also, acting within organizational frameworks alters the expected behavior of individuals acting alone. See, e.g., CHRISTOPHER STONE, *WHERE THE LAW ENDS: THE SOCIAL CONTROL OF CORPORATE BEHAVIOR* (1975) (arguing to change corporate culture and ethics); WOLGAST, *supra* note 213, at 181, 66–67, 143 (lost sense of personal agency diffuses responsibility); Kenneth E. Goodpaster & John B. Matthews, *Can a Corporation Have a Conscience?*, 60 HARV. BUS. REV. 132, 132–41 (1982) (answering title question affirmatively). *But see* John C. Danley, *Corporate Moral Agency: The Case for Anthropological Bigotry*, in *ETHICAL ISSUES IN PROFESSIONAL LIFE* 269, 270, 272 (Joan C. Callahan ed., 1989) (arguing against corporate consciousness and capacity for punishment); John Ladd, *Morality and the Ideal of Rationality in Formal Organizations*, 54 THE MONIST 488, 513 (1970) (arguing that organizational acting is a metaphorical idea).

²³⁵ See, e.g., Robin Roth, *Publicity Pimps and Extreme Schemes: PETA’S Public Relations Crisis and the Future of Animal Welfare Movement*, AZVEGAN, <http://www.azvegan.com/peta.htm> (last visited Aug. 10, 2009) (“grossly offensive” tactics doing “more harm than good”); Editorial, *PETA Tactics Cross Line*, WESTERN COURIER, Feb. 18, 2009, http://www.westerncourier.com/home/index.cfm?event=displayArticlePrinterFriendly&uStory_id=b52da642-4ffd-4b26-9ab4-228fcb7eb1fd (arguing that tactics “so outlandish” are ineffective); UNDUE INFLUENCE, <http://www.undueinfluence.com/peta.htm> (last visited August 10, 2009) (describing “unlawful means” of “rabid and radical” group). *But see Animal Rights Uncompromised: PETA’s Tactics*, PETA, <http://www.peta.org/campaigns/ar-petatactics.asp> (last visited Aug. 10, 2009) (official PETA statement defending “provocative and controversial” tactics as needed to arouse media interest and gain issue exposure).

²³⁶ See Michael Martin, *Ecosabotage and Civil Disobedience*, 12 ENVTL. ETHICS 291, 292 (1990) (comparing “Ecosabotage” to civil disobedience and asserting that Earth First! adopted some unlawful tactics from Edward Abbey’s novel, *THE MONKEY WRENCH GANG*).

reintroductions.²³⁷ Environmental groups are also judged by lapses from commendable patterns. For example, the Nature Conservancy struggled mightily to overcome concerns about past conflicts of interest in land acquisitions.²³⁸

Some organized corporate groups are susceptible to the harshest ethical judgments because of their power to wreak devastating harms. British Petroleum aroused righteous indignation related to the Gulf of Mexico oil spill. The corporation displayed collective traits of environmental callousness and recklessness, even though few would attribute vices to every corporate actor. Organizational character evaluations illustrate that people endow groups as well as individuals with environmental character.

C. Should Law Pursue a Path to Environmental Gratitude?

If formal groups can exemplify environmental virtues like gratitude, what about more abstract institutions like law? Is an emotive virtue like gratitude meaningful on this level of abstraction? Whether law in its formal legislative, regulatory, and judicial dimensions can or should attempt to influence gratitude toward the environment is a specific version of the age-old question whether law can or should mold values and attitudes. My short answer is yes, in a limited and indirect manner. While law may have a relatively feeble role, it is nonetheless a meaningful source of collective emotions that may evolve into virtues or vices. American environmental law could adopt the purpose of encouraging virtues more explicitly than it does now, with plausibly beneficial, and at least not harmful, effects.

One longstanding view is that law substantially influences virtue. Aristotle believed that promoting virtue is the most important function of all political governance.²³⁹ Aristotle's views on the origins and development of virtue more

²³⁷ See e.g., Kristen DeBoer, *Dreams of Wolves*, in *THE RETURN OF THE WOLF: REFLECTIONS ON THE FUTURE OF WOLVES IN THE NORTHEAST* 64, 86 (John Elder, ed., 2000) (describing the Defenders program to compensate farmers for wolf depredations as a way to reduce conflict).

²³⁸ See *Conflict of Interest Policy*, THE NATURE CONSERVANCY, <http://www.nature.org/aboutus/leadership/art15486.html> (officially posted new and revised conflict policy of organization developed following problems); The National Center for Public Policy Research, *Environmental Activist: The Nature Conservancy*, (Mar. 29, 1996), <http://www.nationalcenter.org/dos7128.htm> (mentioning 1992 Department of Interior investigation and finding that government had over-spent on Conservancy land transactions and the Conservancy had profited).

²³⁹ Aristotle, *Politics Bk. III.9*, in *ARISTOTLE: ON MAN IN THE UNIVERSE* 300–02 (Louis Ropes Loomis ed., 1971) [hereinafter *Politics*]

generally make this extension sensible. Education and habitual practice make excellence of all kinds possible, Aristotle believed.²⁴⁰ As the harpist plays well through practice in emulating superior musicians, a person becomes morally virtuous by repeatedly acting as a virtuous person would act.²⁴¹ Eventually, such habitual conduct becomes pleasurable and performed reflexively for its intrinsic worth.²⁴² As virtuous practices become integrated into character, struggles against temptation subside.²⁴³ This condition still requires attention and effort, however, because virtue is intellectual as well as moral.²⁴⁴ The person disposed to behave virtuously must exercise practical judgment to decide in particular situations the appropriate response, the proper balance (mean) between excess and deficiency, in Aristotle's terms.²⁴⁵ For example, courage is the mean between rashness and timidity, but the precise target of courage varies contextually.²⁴⁶ The virtuous person recognizes this precise point through practical reason, which improves through practice and reflection.²⁴⁷ This developmental trajectory is hardly inevitable, so the political structure of society should encourage both good moral and intellectual habits to promote virtue in its citizens.²⁴⁸

Critics charge variously that such a role of the state is sensible only within small and homogenous societies (such as classical Greece),²⁴⁹ that state intervention into individual lives is elitist, anti-democratic, paternalistic, and coercive, especially in highly pluralistic societies,²⁵⁰ and that it is unrealistic to assume that public institutions like law actually can have an appreciable effect on citizen attitudes, values, and character.²⁵¹ Yet law carries normative messages either

²⁴⁰ ARISTOTLE, *ETHICS*, *supra* note 1, at Bk. I.7, Bk. II.11.

²⁴¹ *Id.* at Bk. II.1.

²⁴² *Id.* at Bk. II.3, 4.

²⁴³ *Id.* at Bk. II.1 (acquiring virtuous habits that become dispositions)

²⁴⁴ *Id.* at Bk. II.8, Bk. VI.1, Bk. III.3; Bk. IV.1.

²⁴⁵ *Id.* at Bk. II.6, 8.

²⁴⁶ *Id.* at Bk. II.9, Bk. III.6–7.

²⁴⁷ *Id.* at Bk. II.1–4.

²⁴⁸ *Id.* at Bk. I.2. *See also* Aristotle, *Politics*, *supra* note 239, at Bk. III.9.

²⁴⁹ *See, e.g.*, Eric Claeys, *Virtue and Rights in American Property Law*, 94 CORNELL L. REV. 888, 924–27 (2009) (modern society unsuited to Greek civic model); Jeffrey Nesteruk, *Law, Virtue, and the Corporation*, 33 AM. BUS. L. J. 473, 480 (1996) (ideal community requiring conversation, reflection, and shared experience).

²⁵⁰ *See, e.g.*, Claeys, *supra* note 249, at 927–29 (expressing concern that state influence on norms could be tyrannical); Katrina M. Wyman, *Should Property Scholars Embrace Virtue Ethics? A Skeptical Comment*, 94 CORNELL L. REV. 991, 1004–05 (2009) (expressing concerns with paternalism in promoting particular idea of flourishing).

²⁵¹ *See, e.g.*, Richard O. Brooks, *Coercion to Environmental Virtue: Can and Should the Law Mandate Environmentally Sensitive Lifestyles*, 31 AM. J. JURIS. 21, 41 (1986) (discussing skepticism about using law to change attitudes but mentioning racial attitudes as counter-example).

implicitly, by design, or even by omission. Even without knowing the extent of influence, law's normative signals might as well address citizen's better natures. Empirical evidence is currently insufficient to demonstrate that law changes attitudes, although this would be a fruitful area of study.²⁵² Thus my argument is heuristic; in the face of uncertainty, it appeals to the most promising reasoning out of normative alternatives. It is preferable to assume that law can influence emotional dispositions, and even virtue, because such potential would be more ethically beneficial than the opposite assumption of no influence, should influence turn out to be true. At worst, this assumption is futile and harmless, although people do tend to accept that some laws have shaped common perceptions and conduct even without empirical confirmation. For example, they commonly believe that Civil rights jurisprudence, particularly the judicial decision *Brown v. Board of Education*,²⁵³ increased inter-racial interactions and dispelled some prejudices born of ignorance.²⁵⁴

American environmental law could adopt the purpose of shaping attitudes and eventually virtues more explicitly than it does now, with plausibly beneficial, and at least not harmful, effects. Injecting gratitude into environmental law would be best suited to policy statements in environmental statutes that either guide individual conduct or provide purposive guidance to regulatory agencies implementing environmental law. In judicial decisions, appeals to gratitude could appear in overall reasoning supporting environmentally protective decisions. Such legal expressions would remind a legal audience of environmental bounties and corresponding debts. Texts could be amended to bring environmental gratitude to the surface where it may already be implicit.

D. Existing Legal Examples of Broad but Meaningful Pronouncements

Why bother adding more feeble pronouncements to the law, one might argue? They are impotent because of vagueness,²⁵⁵ thus detracting from text having actual force. A partial response is that environmental law already contains many broad statements of purpose susceptible to varying interpretations. Combined with interpretive content of legislative histories, judicial interpretations, and

²⁵² See Claeys, *supra* note 249, at 914 (discussing lack of evidence for virtue approaches); Wyman, *supra* note 250, at 1001 (discussing evidence against virtue approaches); Eduardo M. Penalver, *Land Virtues*, 94 CORNELL L. REV. 821, 873–74 (2009) (recommending empirical study of law's normative influence).

²⁵³ *Brown v. Board of Education*, 347 U.S. 483 (1954).

²⁵⁴ See, e.g., Brooks, *supra* note 251, at 41; Michael W. Combs, *Revisiting Brown V. Board of Education: A Cultural, Historical-Legal, and Political Perspective*, 47 HOW. L. J. 627, 644–45 (2004) (discussing transformed values, practices, and attitudes).

²⁵⁵ See Brooks, *supra* note 251, at 30 (discussing the difficulty of defining broad ideas like “ecologically sensitive life-style”).

substantive amendments, vague declarations acquire content and direction over time.

An example is the relatively common invocation of duties to future generations in legislative, regulatory, and judicial law, American and foreign. Relevant references appear in many sources, and I note examples here just to illustrate how expansive ideas do enter and influence law. An incomplete list of United States statutes with broad reference to environmental preservation for future generations includes, The National Park Service Organic Act of 1916,²⁵⁶ The Wilderness Act of 1964,²⁵⁷ and The National Environmental Policy Act (NEPA) of 1969.²⁵⁸ Despite their breadth, such statutory references influence particular agency actions at an operational level. In developing a Climbing Management Plan for the “Devils Tower” national monument in Wyoming, for example, Park Superintendent, Deborah Liggett, invoked her statutory duty from the Organic Act to preserve park resources for the future.²⁵⁹ She restricted recreational rock climbing equipment and practices on a unique volcanic butte, despite the demand of many climbers to continue unimpeded access,²⁶⁰ and litigation over whether the Park’s Climbing Plan harmed commercial climbers’ livelihood and favored Native religion.²⁶¹ Liggett’s Plan held,²⁶² and over time park users including most climbers have accepted, or at least tolerated, her interpretation of expansive legal language.²⁶³ Reasoning about obligations to the

²⁵⁶ The Organic Act of 1916, 16 U.S.C. §1 (2006) (“The service thus established shall promote and regulate the use of the Federal Areas known as national parks, monuments, and reservation. . . to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”).

²⁵⁷ The Wilderness Act of 1964, 16 U.S.C. § 1131(a)–36 (1994): “[T]here is hereby established a national Wilderness Preservation System to be composed of federally owned areas designated by Congress as ‘wilderness areas,’ and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness. . .”

²⁵⁸ 42 U.S.C. §§ 4321–70(d) (1988). “In order to carry out the policy. . .it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy. . .to the end that the Nation may. . .fulfill the responsibilities of each generation as trustee of the environment for succeeding generations.” *Id.* § 4331(b)(1).

²⁵⁹ See United States Department of the Interior, Draft Climbing Management Plan and Environmental Assessment, Devils Tower National Monument, Wyoming" (1994), <http://digitalcommons.usu.edu/govdocs/363>.

²⁶⁰ *Id.*

²⁶¹ *Bear Lodge Multiple Use Ass’n v. Babbitt*, 2 F.Supp. 1448 (D. Wyo. 1998), *aff’d* 175 F.2d 814 (10 Cir. 1999).

²⁶² *Id.*

²⁶³ NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, DEVILS TOWER NATIONAL MONUMENT, FREQUENTLY ASKED QUESTIONS, <http://www.nps.gov/deto/faqs.htm> (last visited Oct. 17, 2009) (updating voluntary climbing compliance at eighty percent).

future has also influenced well-known environmental cases, for example, *Tennessee Valley Authority v. Hill*,²⁶⁴ and *National Audubon Society v. Department of Water and Power of City of Los Angeles*.²⁶⁵

Foreign law and international documents of legal significance also have widely declared broad duties to the future. A tiny and motley sampling includes the Constitution of Brazil,²⁶⁶ a Filipino Supreme Court case, *Minors Oposa v. Secretary of the Department of Environmental and Natural Resources*,²⁶⁷ the United Nations World Charter for Nature,²⁶⁸ and the 1992 Declaration from the United Nations Convention on the Environment and Development at Rio.²⁶⁹

E. Suggested Enhancement of Existing Law by References to Gratitude

Building on the analogy to future generations in current law, I suggest that selected laws should include brief references to environmental gratitude. I could find no such references in existing law, domestic, foreign, or international. Although law aptly prescribes environmental duties, even undefined and amorphous duties to abstractions like future generations, it nowhere seems to mention motivations and emotions related to environmental protection. I see no harm in acknowledging debts to the environment based on gratitude. At best, such references could reinforce attitudes of gratitude that could contribute to collective virtue. The Organic Act currently charges the National Park Service “to provide for the enjoyment of” park lands.²⁷⁰ Inserting the words “and in gratitude for” after “enjoyment of” would not alter the essential meaning of the current language. Yet this would accomplish an almost

²⁶⁴ 437 U.S. 153, 177–80 (1978) (discussing biodiversity as resource vital to future).

²⁶⁵ 658 P. 2d 709, 719–21 (1983) (discussing state as trustee of water resources with duties to preserve the trust for the future).

²⁶⁶ CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] art. 225 (Braz.) (“All have the right to an environment that is ecologically in equilibrium, ... which imposes on both the government and society as a whole the duty of protecting it and preserving it for both the present and future generations.”).

²⁶⁷ 224 S.C.R.A. 792 (July 30, 1993) (Phil.), reprinted in 33 I.L.M. 173, 179–81, 184–85 (1994) (discussing legal and natural law duties to future people and granting standing to minors to represent future people).

²⁶⁸ “Reaffirming that man must acquire the knowledge to maintain and enhance his ability to use natural resources in a manner which ensures the preservation of the species and ecosystems for the benefit of present and future generations.” World Charter for Nature, G.A. Res. 7, U.N. Doc. A/RES/37/7 (Oct. 28, 1982).

²⁶⁹ U.N. Conference on Environment and Development, June 3–4, 1992, *Rio Declaration on the Environment and Development*, Principle 3, U.N. Doc. A/CONF.151/26/Rev.1 (Vol. 1) (1993): “The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.”

²⁷⁰ See The National Park Service Organic Act of 1916, *supra* note 256, at §§ 1–1(a).

imperceptible shift from a third person stance of simply observing aesthetic and recreational values to a first personal expression of thanks for those values, nudging the reader from a stance of entitlement closer to a posture of moral engagement and responsibility. Such revision would tip the emphasis from recognizing natural qualities there for human benefit to acknowledging human debts to guard the existence of such qualities.

A similar deliberate shift to gratitude could occur in many environmental laws that currently address environmental benefits, including goods, ecological services, recreation, and cultural values as subjects of protection. Reminders of gratitude over time might change a “there for us to use” attitude into a sense of obligation “to honor and preserve.” One surely should not be overly optimistic about the power of small and incremental revisions to dislodge embedded perspectives, but it is worth the effort to harness law as one tool for that project.

A skeptic might say that broad nods to future generations or gratitude make lofty rhetoric but rarely play a meaningful role in statutory implementation. Such superfluous language muddies and weakens the law, the doubter could claim. While it may be true that expansive pronouncements rarely resolve technical issues of legal interpretation, they can sway a legal interpreter to emphasize some values over others. Elastic statements about future generations counter-balance the rush to short-term thinking. They tickle a collective aspiration to become a people who do not squander riches with abandon. They reveal normative conflict with prevailing consumptive cultural values and stimulate moral imagination of a better vision. Open-ended declarations also invite dialogue about different aspirations and varying notions of how best to implement values. The dialogic power of value statements thus nourishes democratic decision-making, and that process may improve legal substance.

Statements of gratitude have similar purposes, but they have further force in converting abstract duties into emotional involvement that can promote a sense of personal responsibility. They tell us our motivations matter as well as our actions and that sustained environmental improvement depends in part on collective character. They invite emotional engagement toward this end.

A critic might object to exhorting feelings in any law. Mentioning gratitude goes beyond declaring amorphous duties to non-existent beings like future people, or even the environment itself, the skeptic might say, because at least duty language is familiar in law even when the beneficiaries are unclear. The government’s role is to prevent environmental harm through law, not to instill morally correct emotions, the critic could continue. Worse than the parent who disparages the child’s ingratitude toward Aunt Bertha, legal moralizing about

emotions is unjustifiably paternalistic. Government both does not know best how people do and should feel and lacks authority to direct emotions for the individual and common good.²⁷¹

A respondent can concede that it is odd for law to recite emotions directly and that government should not try to coerce particular emotional attitudes, even if such coercion were psychologically possible. Yet most people already accept some legitimate educative functions of government, as we have seen. Law sends normative messages even when not intended. Squeamishness about coercion or paternalism is legitimate if government attempts to sway emotions without sound basis, but environmental gratitude is not an arbitrary or intrusive subject of motivational nourishment. A statutory or other legal policy statement that explicitly recognizes myriad benefits of the environment is grounded in scientific understanding of the interdependence of human and non-human nature and well-documented impacts of short-term exploitation. Gratitude for the environment has a cognitive foundation, and the emotional response improves with growing knowledge and reflection. Encouraging a grateful response to the bountiful environment is both morally and scientifically appropriate. Ingratitude has contributed to demonstrated environmental harm, the prevention of which is definitely the business of government.

F. Exemplifying Gratitude As a Virtue in Evolving Ecological Services Law

I close with an example of how environmental gratitude can infuse a specific area of developing law. I select the burgeoning law of ecological services precisely because it is evolving and perhaps more nimble. The example also implicates gratitude for material bounty, probably the most understandable form of gratitude. Unbounded instrumental motives of use and profit have led humans to ravage worldwide resources, so it is important to seize an opportunity to tilt this mentality toward gratitude for goods and services, even a bit. Also, natural processes and systems offer non-material values like beauty and repose, thus giving this arena of legal protection a potentially broader base than economics. Finally, the law really serves an important educative function in this context because ecological services are free, sometimes invisible or hidden, and taken for granted to their severe detriment.²⁷² Thus I propose that explicit pronouncements of gratitude be inserted into the growing battery of national and international laws and treaties on ecological services.

²⁷¹ John Stuart Mill, *On Liberty*, in *ESSENTIAL WORKS OF JOHN STUART MILL* 322–23 (Bantam Books, 1965) (1869).

²⁷² See, e.g., Dailey et al., *supra* note 133, at 338 (describing services as “pervasive but unnoticed”); Salzman et al., *supra* note 133, at 310 (describing services as “taken for granted”).

In 2000, the United Nations commissioned a multi-disciplinary Millennium Ecosystem Assessment of the global condition of ecosystem services, which concluded that services are rapidly declining and needing protection.²⁷³ With awareness of the problem and its stakes, legal protection is expanding around the world. Growing national and international law and international documents of legal significance language could partly justify protection of specific services by reciting their value and by explicitly invoking human gratitude as one appropriate response. They could insert something like this language, adapted contextually: “These protections acknowledge human debts of gratitude for the vital service(s) of [purifying drinking water, reducing emissions harmfully altering climate, protecting coastlines from floods and contamination by absorbing and purifying water, pollinating crops that promote food security, providing beautiful scenery, being a source of rich biodiversity, etc.], on behalf of present and future generations and the environment itself.” This kind of declaration could promote public awareness of the systems people rely upon for sustenance and the costs associated with their decline or destruction. Beyond raising consciousness, expressions of gratitude could spur emotional responses, reminding people of their personal and collective moral responsibilities to preserve these fruits.

Gratitude might also temper growing recommendations to craft this area of law in predominantly economic terms.²⁷⁴ Commentators urging reform in this area of law are helpfully considering ways to create viable markets in services as a way to combat ignorance of services’ value and create incentives for conservation.²⁷⁵ Economic approaches make considerable sense in this context, given the widespread assumption that services are free and unending. While economic approaches to environmental law are important, familiar, and largely favored, this relatively novel legal regime provides important opportunity to reconsider whether economic dominance creates as well as mitigates environmental problems. The developing law of ecological services could heed the warnings of diverse ethicists about the shortcomings of viewing the environment primarily in commodity terms.²⁷⁶

²⁷³ See, e.g., Thompson, *supra* note 133, at 461.

²⁷⁴ See, e.g., Dailey et al., *supra* note 133, at 343–50; Salzman *et al*, *supra* note 133, at 311–13, 326–28; Thompson, *supra* note 133, at 461–63, 471–72.

²⁷⁵ See Thompson, *supra* note 133, at 461–63, 471–72.

²⁷⁶ See, e.g., LEOPOLD, *supra* note 39, at 248–51, 258–59; MARK SAGOFF, THE ECONOMY OF EARTH 5–7 (1990); Warwick Fox, *Deep Ecology: A New Philosophy of our Time?*, in ENVIRONMENTAL ETHICS: READINGS IN THEORY AND APPLICATION 149–56, 150 (Louis P. Pojman & Paul Pojman eds., 6th ed. 2012); Dawson, *supra* note 195, at 482.

One concern with economic approaches is that purchasing restraint exceeds reasonable resources. Once people receive payment for conservation, demands for compensation tend to swell and monetary incentives become expected. For example, paying large Amazonian ranchers to refrain from cattle production raises both expectations and equity issues for poor farmers and indigenous settlers who lack comparable resources to secure their rights to land through expensive surveys and perfection of title.²⁷⁷ The Brazilian economy cannot sustain widespread monetary incentives, so economic approaches have failed to provide sufficient protection.²⁷⁸ Enforcement of land use restrictions has also suffered from limited resources, and the vastness of Amazonian territory makes enforcement of environmental laws a doubtful source of protection.²⁷⁹ Besides inherent resource constraints, the pervasiveness, varieties, and potential conflicts of ecological services inject complexity and challenges into potential markets, and financial incentives may not address delicate and idiosyncratic inter-relationships sufficiently.

Paying owners for ecological restraint also raises psychological and ethical concerns. Psychologists have long documented a phenomenon called the “over-justification effect,” which hypothesizes that inducing a person to engage in an activity for an extrinsic goal undermines that person’s intrinsic interest in an activity.²⁸⁰ People generally tend to attribute their behavior to external causes.²⁸¹ If a person is rewarded or sanctioned for conduct, he or she will cite these extrinsic motivators as reasons for action.²⁸² This is so even if the person actually acted on inward impulses like generosity.²⁸³ Over time the actor expects external inducements to continue, and personal dispositions like generosity can fade. If economic incentives (or disincentives) become the primary legal means of safeguarding ecological services, law could mold motivation into predominantly economic. Ethically, this would shrink the scope of personal and

²⁷⁷ See, e.g., Jonathan Hoekstra, *Stopping Deforestation on the Amazonian Frontier*, COOL GREEN SCIENCE: THE CONSERVATION BLOG OF THE NATURE CONSERVANCY (May 18, 2010), <http://blog.nature.org/2010/05/stopping-deforestation-on-the-amazonian-frontier/> (discussing importance of land registration as incentive for conservation).

²⁷⁸ See Janelle E. Kellman, *The Brazilian Legal Tradition and Environmental Protection: Friend or Foe?*, 25 HASTINGS INT’L & COMP. L. REV. 145, 155–58 (2002).

²⁷⁹ Id.

²⁸⁰ See, e.g., Mark R. Lepper et al., *Undermining Children’s Interest with Extrinsic Reward: A Test of the ‘Overjustification’ Hypothesis*, 28 J. PERS. & SOC. PSYCHOL. 129–37, 130 (1973); William D. Crano & John Sivacek, *The Influence of Incentive-Aroused Ambivalence on Overjustification Effects in Attitude Change*, 20 J. EXPERT. SOC. PSYCHOL. 137, 137 (1984).

²⁸¹ Lepper et al., *supra* note 280, at 129.

²⁸² Id.

²⁸³ C. Daniel Batson et al., *Critical Self-Reflection and Self-Perceived Altruism: When Self-Reward Fails* 594–602 (1987).

collective responsibility just when newly evident environmental harms should enlarge it. A quid pro quo approach could dilute virtuous desires to protect environmental systems on non-commodity grounds, for their own sake, or simply because they are there. Thus, the resources of individual and collective character may be as much at risk as limited economic resources. Law has some power to forestall such an outcome.

Longstanding individual and institutional attitudes about the earth as a commodity have taken a toll on collective environmental character. An emotion like gratitude seems quaint and impotent because we are so accustomed to treating our surroundings as available to us and endlessly bountiful. Expressing reasons to be grateful for natural services could at least disrupt complacency and remind us to notice the fruits of our surroundings as a first step toward accepting responsibility for their continued existence. Grateful attunement through law could become familiar in the services context and eventually extend to other areas of environmental law that protect non-material as well as material bounties. As familiarity swells, expressions of gratitude might also address the teaching, healing, and cultural fertility dimensions of the environment. Incrementally, gratitude might influence law's aspirations while law in turn shapes emotions.

VIII. CONCLUSION

“No important change in ethics was ever accomplished without an internal change in our intellectual emphasis, loyalties, affections, and convictions.” – Aldo Leopold²⁸⁴

Environmental gratitude is a rich and complex moral response. It can evolve from fleeting feelings into a sustaining personal and public virtue. Across cultures and times, people variously experience gratitude for the teaching, healing, identity conferring, relational, and providing dimensions of the environment. These emotions emerge in encounters with the natural world, positive and negative, and they absorb cognitive content with ongoing reflection and applications to daily judgments and decisions. At its most varied and familiar best, environmental gratitude permeates overall attitudes and dispositions and commits environmentally grateful people to creative thinking about environmental problems. In its most diffuse forms, environmental gratitude percolates into character and becomes a way of seeing and responding.

²⁸⁴ LEOPOLD, *supra* note 39, at 246.

Environmental gratitude can also infuse social institutions and influence collective aspirations and values. It can influence the attunement and collective guidance that law provides. At least in broad declarations of policy, American law recognizes instrumental and aesthetic values of the environment and espouses duties to preserve these resources for future humans. Rarely if ever does American law make gratitude for environmental offerings explicit, suggesting lack of recognition at best and an attitude of entitlement at worst. Existing and new law could directly acknowledge human thanks and debts for the varied bounties of the natural world, justifying concomitant legal responsibilities of human beneficiaries. In the evolving law of ecological services, expressing gratitude could heighten public awareness of environmental values and moral responsibilities. While such recitations could never eradicate controversy or uncertainty, they could remind us of our ecological dependency and encourage our respect, inching us toward appreciation of inherent environmental value. Expressions of public gratitude could surpass ecological economics as the predominant basis for protection.

Individuals and institutions should reflect on the ethical role of environmental gratitude in private and public life. They should cultivate and enrich gratitude toward a virtue that sustains environmental attitudes and commitments. Virtuous gratitude has power to sustain the deep intervention needed to rescue the environmental future.