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Myth of Nature

The affirmative’s infrastructure is an attempt to distance humanity from nature

Duyser 10 Mitchell Duyser. Master of Architecture at University of Cincinnati. April 2010. “Hybrid Landscapes: Territories of Shared Ecological and Infrastructural Value”. Masters Thesis.Pages 3-7. JFS

The construct of modern human life is built upon an invisible foundation. Not invisible as in undetectable, but invisible as in hidden and forgotten. Representative of the infrastructure that enables civilization, this foundation is formed from the human and ecological systems that support the continued expansion of modern society. Often unnoticed, this myriad of pipes, wires, rivers, and oil ﬁelds is pushed out of the collective conscious and awareness. So dependent have we become on these systems, minor disruptions in their functionality can threaten civilization itself. As exempliﬁed by events like the 2007 Minneapolis bridge disaster1, and more abstract issues like climate change, these systems are approaching the point of widespread failure. Such threats of disaster are currently the only events capable of bringing infrastructure to the surface of everyday experience, and will occur with increasing frequency unless widespread societal action is taken. Humans need to change how they interact with the rest of the world, speciﬁcally focusing on the technologies that enable civilization, and the collectively held societal perspective of the environment. Civilization can no longer afford to forget about the systems that enable existence, nor can it assume that such infrastructures will be available indeﬁnitely. Infrastructure has traditionally been intentionally and methodically hidden from view, buried underground, and moved to the outskirts of town. Allowing humans to live free of concern for how necessities are acquired, organized, and distributed. The infrastructure that is exposed, such as power lines, roads, and cellular towers, are rendered invisible by their ubiquity, subsumed by the contemporary urban landscape. Throughout modern time, infrastructure has served to insulate human activity from its effects on the rest of the planet. “Away” was a place anywhere but here, removed from inﬂuence over problems like water quality and climate change. The unavoidable truth however, that this isolation is not physical but psychological, has been slowly revealing itself over the past ﬁfty years. Book’s like Rachel Carson’s Silent Spring, published in 1962, and movies like Al Gore’s An Inconvenient Truth, (2006) have helped illuminate the previously “invisible” systems binding civilization to the rhythms of the planet. We can now attribute much of the current environmental ﬂuxus to the ignorance of our participation in global and local ecology. Today, truly no place exists that has not experienced the impacts of humanity.2 This ignorance or rather, willingness to overlook man’s interaction with the environment is not a recent societal or cultural development. Our actions and reasoning are deeply rooted in the classical tradition, dating back to the founding myths of Christianity and ancient Greece. Perpetuated and augmented through the Enlightenment and Industrialization, western culture has been left with a fractured view of nature. One that idolizes and romanticizes the “virgin wilderness” while simultaneously working feverishly to exploit every available natural resource in the name of societal and economic progress. Romanticism values nature for its aesthetic and sentimental appeal, while Industrialization’s commoditization of the environment makes it subservient to human needs and desires. The assimilation of these views has led to the perception of nature-as-beauty, allowing for the consumption of less beautiful landscapes with disregard for ecological consequences. 3 New conceptualizations of nature must recognize the presence of complex and emergent systems, where the whole behaves in a way that cannot be understood through the isolation of individual parts.4 Work in the ﬁeld of biomimicry, championed by the biologist Janine Benyus and the architect William McDonough, is already moving towards this end. Both call for a new industrial organization that looks to nature to provide speciﬁc technologies as well as methodologies for production that displace consumption and disposal with nutrient cycles that are endlessly renewable and detoxifying for the environment.5 6 An architecture responsive to a redeﬁned conception of ”nature” must address both the physical and cultural relationships humans have with their environment. Such an architecture must visually and functionally integrate the previously disparate activities of civilization and nature. Infrastructural solutions can no longer come through human ingenuity alone, but through mentorship and comprehension of the complex systems already existing in nature. This use of biomimicry allows environmental design to evolve beyond the current sustainability movement where simply being “less bad” is still good enough.7 Concepts like the USGBC’s LEED (Leadership in Energy and Environmental Design) system, and other supposedly “green” building practices do nothing to change the fundamental relationship humans have with the planet. They function under the dated and false assumption of humanity as a separate system from the rest of nature. Polluting and consuming at a slightly slower rate is not a thoughtful means of reintegrating civilization with ecology.

This assumption is pure environmental dualism – the result is ecocide and extinction

The Dark Mountain 9 (*Uncivilization*, network of writers, artists, and thinkers, The Dark Mountain Manifesto, http://dark-mountain.net/about/manifesto/, 2009)JFS/NAR

The myth of progress is founded on the myth of nature. The first tells us that we are destined for greatness; the second tells us that greatness is cost-free. Each is intimately bound up with the other. Both tell us that we are apart from the world; that we began grunting in the primeval swamps, as a humble part of something called ‘nature’, which we have now triumphantly subdued. The very fact that we have a word for ‘nature’ is [5] evidence that we do not regard ourselves as part of it. Indeed, our separation from it is a myth integral to the triumph of our civilisation. We are, we tell ourselves, the only species ever to have attacked nature and won. In this, our unique glory is contained. Outside the citadels of self-congratulation, lone voices have cried out against this infantile version of the human story for centuries, but it is only in the last few decades that its inaccuracy has become laughably apparent. We are the first generations to grow up surrounded by evidence that our attempt to separate ourselves from ‘na ture’ has been a grim failure, proof not of our genius but our hubris. The attempt to sever the hand from the body has endangered the ‘progress’ we hold so dear, and it has endangered much of ‘nature’ too. The resulting upheaval underlies the crisis we now face. We imagined ourselves isolated from the source of our existence. The fallout from this imaginative error is all around us: a quarter of the world’s mammals are threatened with imminent extinction; an acre and a half of rainforest is felled every second; 75% of the world’s fish stocks are on the verge of collapse; humanity consumes 25% more of the world’s natural ‘products’ than the Earth can replace — a figure predicted to rise to 80% by mid-century. Even through the deadening lens of statistics, we can glimpse the violence to which our myths have driven us. And over it all looms runaway climate change. Climate change, which threatens to render all human projects irrelevant; which presents us with detailed evidence of our lack of understanding of the world we inhabit while, at the same time, demonstrating that we are still entirely reliant upon it. Climate change, which highlights in painful colour the head-on crash between civilisation and ‘nature’; which makes plain, more effectively than any carefully constructed argument or optimistically defiant protest, how the machine’s need for permanent growth will require us to destroy ourselves in its name. Climate change, which brings home at last our ultimate powerlessness. These are the facts, or some of them. Yet facts never tell the whole story. (‘Facts’, Conrad wrote, in Lord Jim, ‘as if facts could prove anything.’) The facts of environmental crisis we hear so much about often conceal as much as they expose. We hear daily about the impacts of our activities on ‘the environment’ (like ‘nature’, this is an expression which distances us from the reality of our situation). Daily we hear, too, of the many ‘solutions’ to these problems: solutions which usually involve the necessity of urgent political agreement and a judicious application of human technological genius. Things may be changing, runs the narrative, but there is nothing we cannot deal with here, folks. We perhaps need to move faster, more urgently. Certainly we need to accelerate the pace of research and development. We accept that we must become more ‘sustainable’. But everything will be fine. There will still be growth, there will still be progress: these things will continue, because they have to continue, so they cannot do anything but continue. There is nothing to see here. Everything will be fine. We do not believe that everything will be fine. We are not even sure, based on current definitions of progress and improvement, that we want it to be. Of all humanity’s delusions of difference, of its separation from and superiority to the living world which surrounds it, one distinction holds up better than most: we may well be the first species capable of effectively eliminating life on Earth. This is a hypothesis we seem intent on putting to the test. We are already responsible for denuding the world of much of its richness, magnificence, beauty, colour and magic, and we show no sign of slowing down. For a very long time, we imagined that ‘nature’ was something that happened elsewhere. The damage we did to it might be regrettable, but needed to be weighed against the benefits here and now. And in the worst case scenario, there would always be some kind of Plan B. Perhaps we would make for the moon, where we could survive in lunar colonies under giant bubbles as we planned our expansion across the galaxy. But there is no Plan B and the bubble, it turns out, is where we have been living all the while. The bubble is that delusion of isolation under which we have laboured for so long. The bubble has cut us off from life on the only planet we have, or are ever likely to have. The bubble is civilisation. Consider the structures on which that bubble has been built. Its foundations are geological: coal, oil, gas — millions upon millions of years of ancient sunlight, dragged from the depths of the planet and burned with abandon. On this base, the structure stands. Move upwards, and you pass through a jumble of supporting horrors: battery chicken sheds; industrial abattoirs; burning forests; beam-trawled ocean floors; dynamited reefs; hollowed-out mountains; wasted soil. Finally, on top of all these unseen layers, you reach the well-tended surface where you and I stand: unaware, or uninterested, in what goes on beneath us; demanding that the authorities keep us in the manner to which we have been accustomed; occasion- ally feeling twinges of guilt that lead us to buy organic chickens or locally-produced lettuces; yet for the most part glutted, but not sated, on the fruits of the horrors on which our lifestyles depend.

The alternative is to reject the 1ac’s environmental dualisms – this eliminates the concept of an “environment” and solves destruction of the planet

Rowe 96 — Stan Rowe, Professor Emeritus at the University of Saskatchewan, 1996 (“From Shallow To Deep Ecological Philosophy,” *Trumpeter*, Volume 13, Number 1, Available Online at http://trumpeter.athabascau.ca/index.php/trumpet/article/view/278/413)JFS

Organisms can be “alive” one moment and “dead” the next with no quantitative difference. The recently deceased organism has lost none of its physical parts yet it lacks “life”—an unknown quality of organization (perhaps that mystery called “energy?”) but not the organization itself. A still stronger reason exists for not equating “life” and “organisms.” The latter only exhibit “aliveness” in the context of life-supporting systems, though curiously the vitality of the latter has mostly been denied. By analogy, it is as if all agreed that only a tree trunk’s cambial layer is “alive” while its support system—the tree’s bole and roots of bark and wood that envelops and supports the cambium—is “dead.” Instead we perceive the whole tree as “alive.” The separation of “living” organisms from their supportive but “dead” environments is a reductionist convention that ecology disproves. Both organic and inorganic are functional parts of enveloping ecosystems, of which the largest one accessible to direct experience is the global ecosphere. To attribute the organizing principle “life” to Earth—to the ecosphere and its sectoral aquatic and terrestrial ecosystems—makes more sense than attempting to locate it in organisms per se, divorced from their requisite milieus. The aquatic ecologist Lindeman (1942) who pioneered examination of lakes as energetic systems adopted the ecosystem concept because of the blurred distinction between “living” and “dead” in the components of the Minnesota lakes he studied. The Biological Fallacy, equating organisms with life, is the result of a faulty inside-the-system view (Rowe 1991). Pictures of the blue-and-white planet Earth taken from the outside are intuitively recognized as images of a living “cell.” Inside that “cell,” cheated by sight, people perceive a particulate world separable into important and unimportant parts: the “organic” and the “inorganic,” “biotic” and “abiotic,” “animate” and “inanimate,” “living” and “dead.” Religions, philosophies and sciences have been constructed around these ignorant taxonomies, perpetuating the departmentalization of a global ecosystem whose “aliveness” is as much expressed in its improbable atmosphere, crustal rocks, seas, soils and sediments as in organisms. When did life begin? When did any kind of creative organization begin? Perhaps when the ecosphere came into existence. Perhaps earlier at time zero and the Big Bang. Important human attitudes hinge on the idea of life and where it resides. If only organisms are imbued with life, then things like us are important and all else is relatively unimportant. The biocentric preoccupation with organisms subtly supports anthropocentrism, for are we not first in neural complexity among all organisms? Earth has traditionally been thought to consist of consequential entities—organisms, living beings—and their relatively inconsequential dead environments. What should be attended to, cared for, worried about? The usual answer today is “life” in its limited sense of “organisms,” of biodiversity. Meanwhile sea, land and air—classified as dead environment—can be freely exploited. In the reigning ideology as long as large organisms are safeguarded, anything goes. We demean Earth by equating “life” and “organisms,” then proving by text-book definition that Earth is dead because not-an-organism. In this way mental doors are barred against the idea of liveliness everywhere. Certainly Earth is not an organism, nor is it a super organism as Lovelock has proposed, any more than organisms are Earth or mini-Earth. The planetary ecosphere and its sectoral volumetric ecosystems are SUPRA-organismic, higher levels of integration than mere organisms. Essential to the ecocentric idea is assignment of highest value to the ecosphere and to the ecosystems that it comprises. Note the use of “ecosphere” rather than “biosphere,” the latter usually defined as a “life-filled” (read “organism-filled”) thin shell at Earth’s surface. The meaning of “ecosphere” goes deeper; it is Earth to the core, comprising the totality of gravity and electro-magnetic fields, the molten radioactive magma that shifts the crustal plates, vulcanism and earthquakes and mountain building that renew nutrients at the surface, the whole dynamic evolving “stage” where organisms play out their many roles under the guidance of the larger whole, shaped at least in part by the “morphic fields” of the living Gaia (Sheldrake 1991:162). In different times and places the source of life has been attributed to the air, to soil, to water, to fire, as well as to organisms. As with the blind men touching the elephant, each separate part has been the imagined essential component of the whole Earth. Now that the planet has been conceptualized as one integrated entity, can we not logically attribute the creative synthesizing quintessence called “life” to it, rather than to any one class of its various parts? When life is conceived as a function of the ecosphere and its sectoral ecosystem the subject matter of Biology is cast in a bright new light. The pejorative concept of “environment” vanishes. The focus of vital interest broadens to encompass the world. Anthropocentrism and biocentrism receive the jolting shock they deserve. The answer as to where our preservation emphasis should center is answered: Earth spaces (and all that is in them) first, Earth species second. This priority guarantees no loss of vital parts. The implications of locating animation where it belongs, of denying the naive “Life = Organisms” equation, are many. Perhaps most important is a broadening of the Schweizerian “reverence for life” to embrace the whole Earth. Reverence for life means reverence for ecosystems. We should feel the same pain when the atmosphere and the seas are poisoned as when people are poisoned. We should feel more pain at the destruction of wild ecosystems, such as the temperate rain forest of the West Coast, than at the demise of any organism, no matter how sad the latter occasion, because the destruction of ecosystems severs the very roots of evolutionary creativity.

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The United States federal government should engage in a Contract Compliance Review process, examining the contractors involved in the construction of <aff plan infrastructure>. If and only if the relevant contractors are found to be meeting federal Equal Employment Opportunity objectives, the United States federal government should <plan>.

Lack of Contract Compliance Reviews in the status quo means that federal dollars are supporting employment discrimination – counterplan solves

FHWA 4 (Federal Highway Association, http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/cr\_2eo.pdf)JFS

Problem: Many State Transportation Agencies (STAs) struggle with developing and managing Equal Opportunity (EO) Contract Compliance Programs. Through EO Contract Compliance Programs, the FHWA and STAs work to ensure that Federal and Federal-Aid highway construction funds are not being spent in a manner, which encourages, supports, subsidizes or results in prohibited contracting and employment discrimination. If STAs are not clear on their responsibilities; or, do not know how to go about assuring that Federal contractors and subcontractors don’t discriminate in employment and contracting practices based on race, color, religion, sex, national origin, age or disability, is it unrealistic to think that this is an area ripe for undetected contract irregularities, potential discriminatory acts and non-compliance? The answer is an unequivocal NO. It is not unrealistic to think that there is non-compliance with equal opportunity contract compliance program objectives. The EO Contract Compliance program basically has two primary and complementary objectives that, when applied correctly, will detect and alert responsible parties to noncompliance, whether overt or subtle. The first objective is to provide FHWA guidance, direction and technical assistance to the STA regarding development and implementation of an effective EO contract compliance program as required by Title 23, United States Code, Section 140 and the regulations 23 CFR 230. The second objective is to ensure that contractors and subcontractors performing work on Federal and federally-assisted highway contracts satisfy the non-discrimination and affirmative action contractual requirements set forth in their construction contracts. Solution: Ensuring compliance is a goal that can be attained. It requires training and technical assistance from resources available that possess expert knowledge, skills and abilities, honed by actual hands on developing, managing and reviewing Federal-aid contracts. State Transportation Agencies can greatly enhance development and management of EO contract compliance with class room instruction or on-site technical assistance from members of the newly formed Civil Rights Technical Service Team. The CR TST provides training in the currently revised FHWA Equal Opportunity Contract Compliance Review Guidelines and training and technical assistance in conducting EO Contract Compliance Reviews.

Here’s a solvency advocate – also the review must come before the aff

Madland 11 (Director of the American Worker Project @ Center for American Progress Action Fund, http://www.americanprogressaction.org/issues/labor/news/2011/10/07/10518/comments-on-the-proposed-rulemaking-to-create-a-compensation-data-collection-tool/)JFS

Improve review of companies before they receive contracts: The Federal Acquisition Regulation requires that before awarding supply and service contracts over $10 million contracting officers must work with the OFCCP to screen companies for EO 11246 compliance.[2] The government is also banned from entering into contracts of lesser value with companies that have been found to be noncompliant, but prescreening of these companies is less effective.[3] The government should ensure that all companies are in compliance with EO 11246 before they receive a lucrative government contract by using the OFCCP data tool to screen all prospective contractors to see if their compensation data indicates that further investigation is necessary.

Obligation to reject employment discrimination

Jealous 13 (Benjamin Todd, President of the NAACP, http://www.huffingtonpost.com/benjamin-todd-jealous/employment-discrimination-20-and-what-president-obama-can-do-about-it-in-his-second-term\_b\_2501398.html)JFS

Just like Dr. King, President Obama will speak at a time of great inequality. He will speak at a time when the racial wealth divide is increasing and black unemployment is epidemic. Though he may tout America's slow recovery from a five-year recession, the truth is that black America is still mired in a decades-long recession. And black Americans expect the president to do something about it. Ninety-three percent of African Americans voted for Barack Obama in November, and in many states that was enough to put him over the top. They voted on more than identity politics. In early November the NAACP took a poll of African-American voters in key swing states. When asked for their number-one concern at the ballot box, nearly two out of three respondents answered "jobs." As a candidate Obama promised to focus on jobs. In direct contrast to his opponent, he pledged to lift all boats -- especially those boats that had gotten stuck in the mud. Now that he is about to begin his second term, the black community is watching to see how he will follow through. At the beginning of his second term, President Obama should offer a politically viable program to create jobs where they are most needed. If he needs a place to start, his proposal can follow the "10-20-30" plan devised by Rep. James Clyburn (D-S.C.), the chairman of the Congressional Black Caucus: Ten percent of all federal resources should go to communities where 20 percent of the population has lived under the federal poverty line for 30 years or more. President Obama has offered a similar initiative in the past. In September 2011 he convened a joint session of Congress to unveil the American Jobs Act. The plan provided, among other things, $30 billion to modernize public schools, $15 billion to fix up foreclosed homes and businesses and $10 billion to create a National Infrastructure Bank. Though it was rejected by a gridlocked Congress, the initiative invested in our future while helping our country's most vulnerable communities. A broad jobs plan is an important step, but President Obama needs to go further. He needs to talk about that 20 percent in the "10-20-30" plan who live in persistent poverty. He needs to ask why there are so many communities of the chronically unemployed and underemployed -- and why these disparities continue to fall along racial lines. In order to do that, he should address what can be called "employment discrimination 2.0." We all know that employers cannot discriminate against anyone on the basis of race or gender when they apply to a job, but in many states employers can discriminate against applicants who are currently unemployed, who have a low credit score or who have a criminal conviction on their record. This feeds the vicious circle of unemployment by hitting people when they are already down. "Employment discrimination 2.0" is especially devastating for black communities because so many black workers are already down. African Americans are more likely to be unemployed (for longer) and more likely to have a low credit score -- no surprise, given that many black children are born into poverty. And thanks to a racially biased criminal justice system, black men and women are disproportionately represented in our nation's jails and prisons. If President Obama wants to fulfill has campaign promise to lift all boats, he can start by challenging "employment discrimination 2.0." The American Jobs Act called for a ban on discrimination against the unemployed. President Obama should use his bully pulpit to bring this idea back, and to speak more broadly about all three forms of discrimination. Moreover, he should ask for a review of the various agencies of the federal government to ensure that their personnel practices are as inclusive as possible. When it comes to job creation, the president can get little done without a willing Congress, but when it comes to fighting discrimination, his administration has far more leeway. In the 50 years since the March on Washington, one sad fact hasn't changed: If you are black in America, ending discrimination is just as important as investing in jobs.

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Myth of Nature

Space link

Arendt 61 (Hannah, American political philosopher, “The Conquest of Space and the Stature of Man” The New Atlantis Fall 2007 Pg. 52-54 JF)we do not endorse gendered language

It is at this point, it seems to me, that the humanist’s concern with man and the stature of man has caught up with the scientist. It is as though the sciences had done what the humanities never could have achieved, namely, to prove demonstrably the validity of this concern. The situation, as it presents itself today, oddly resembles an elaborate verification of a remark by Franz Kafka, written at the very beginning of this development: Man, he said, “found the Archimedean point, but he used it against himself; it seems that he was permitted to find it only under this condition.” For the conquest of space, the search for a point outside the earth from which it would be possible to move, to unhinge, as it were, the planet itself, is no accidental result of the modern age’s science. This was from its very beginnings not a “natural” but a universal science, it was not a physics but an astrophysics which looked upon the earth from a point in the universe. In terms of this development, the attempt to conquer space means that man hopes he will be able to journey to the Archimedean point which he anticipated by sheer force of abstraction and imagination. However, in doing so, he will necessarily lose his advantage. All he can find is the Archimedean point with respect to the earth, but once arrived there and having acquired this absolute power over his earthly habitat, he would need a new Archimedean point, and so ad infinitum. In other words, man can only get lost in the immensity of the universe, for the only true Archimedean point would be the absolute void behind the universe. Yet even if man recognizes that there might be absolute limits to his search for knowledge and that it might be wise to suspect such limitations whenever it turns out that the scientist can do more than he is capable of comprehending, and even if he realizes that he cannot “conquer space,” but at best make a few discoveries in our solar system, the journey into space and to the Archimedean point with respect to the earth is far from being a harmless or unequivocally triumphant enterprise. It could add to the stature of man inasmuch as man, in distinction from other living things, desires to be at home in a “territory” as large as possible. In that case, he would only take possession of what is his own, although it took him a long time to discover it. These new possessions, like all property, would have to be limited, and once the limit is reached and the limitations established, the new world view that may conceivably grow out of it is likely to be once more geocentric and anthropomorphic, although not in the old sense of the earth being the center of the universe and of man being the highest being there is. It would be geocentric in the sense that the earth, and not the universe, is the center and the home of mortal men, and it would be anthropomorphic in the sense that man would count his own factual mortality among the elementary conditions under which his scientific efforts are possible at all. At this moment, the prospects for such an entirely beneficial development and solution of the present predicaments of modern science and technology do not look particularly good. We have come to our present capacity to “conquer space” through our new ability to handle nature from a point in the universe outside the earth. For this is what we actually do when we release energy processes that ordinarily go on only in the sun, or attempt to initiate in a test tube the processes of cosmic evolution, or build machines for the production and control of energies unknown in the household of earthly nature. Without as yet actually occupying the point where Archimedes had wished to stand, we have found a way to act on the earth as though we disposed of terrestrial nature from outside, from the point of Einstein’s “observer freely poised in space.” If we look down from this point upon what is going on on earth and upon the various activities of men, that is, if we apply the Archimedean point to ourselves, then these activities will indeed appear to ourselves as no more than “overt behavior,” which we can study with the same methods we use to study the behavior of rats. Seen from a sufficient distance, the cars in which we travel and which we know we built ourselves will look as though they were, as Heisenberg once put it, “as inescapable a part of ourselves as the snail’s shell is to its occupant.” All our pride in what we can do will disappear into some kind of mutation of the human race; the whole of technology, seen from this point, in fact no longer appears “as the result of a conscious human effort to extend man’s material powers, but rather as a large-scale biological process.”27 Under these circumstances, speech and everyday language would indeed be no longer a meaningful utterance that transcends behavior even if it only expresses it, and it would much better be replaced by the extreme and in itself meaningless formalism of mathematical signs. The conquest of space and the science that made it possible have come perilously close to this point. If they ever should reach it in earnest, the stature of man would not simply be lowered by all standards we know of, but have been destroyed.

This dualistic thinking about “human culture” and “nature” is the root of all exclusion

Frank 3 (Roslyn, University of Iowa, Shifting Identities: The Metaphorics of Nature-Culture Dualism in Western and Basque Models of Self, http://www.metaphorik.de/04/frank.pdf)JFS

These dyads reflect the underlying hierarchical ontological ordering that structures certain ‘root metaphors’ found in Western thought (Olds 1992). It should be emphasised that the metaphoric understandings coded into the Western model form sets of asymmetric polarities, although with mutually reinforcing, conceptual frames. For this reason, the culture/nature dualism sets culture above nature, while the mind/body dualism places mind above body. Then just as the polarity of reason/emotion can be identified with masculine/feminine, culture/nature stands for a gendered dualism of masculine/feminine. Stated differently, the metaphoric set of culture/mind/reason/masculine has its counterpart in nature/body/emotion/feminine. In this sense, the dyads represent examples of Aristotelian ‘proportional metaphors’, that is, analogies in the form of A is to B what C is to D. Therefore, since in the case of a proportional metaphor its mapping must always apply reciprocally to either of its co-ordinate terms, each individual component of the dyad sets in Diagram 1 is available as a highly complex and expansive metaphoric resource.1 Moreover, although the reciprocity holding between the dyads, i.e., their status as proportional metaphors, is clearly culturally grounded and hence historically bound, recognition of this fact is not easy to achieve.2 This is because of the epistemic authority afforded to these concepts, an effect that, in turn, is derived from the central role played by these metaphors in structuring Western thought, epistemology, ontology, and personhood.3 In recent years increasing attention has been paid to the development and/or recovery of conceptual frames capable of challenging and overcoming these deeply embedded, hierarchically organised dualities that continue to characterise Western thought. As Lakoff and Turner have observed, the worldview known as “the Great Chain [of Being] itself is a political issue. As a chain of dominance, it can become a chain of subjugation” (Lakoff/Turner 1989: 213).4 Specifically I refer to efforts aimed at discovering a way to move out of an ontology grounded in a logic of dualities, and more concretely, to the difficulties posed by the deeply embedded, dyadic conceptual frame known as mind/body, formerly soul/body, and its conceptual twin, the polarity of culture/nature. Although many scholars have documented the evolution of these concepts within Western thought, particularly the dyads of mind/body, male/female, and more recently, culture/nature,5 less attention has been paid to gaining a perspective on them from the outside. Indeed, as Descola and Pálsson have noted: Deconstructing the dualist paradigm may appear as just one more example of the healthy self-criticism which now permeates anthropological theory. […] If such analytical categories as economics, totemism, kinship, politics, individualism, or even society, have been characterized as ethnocentric constructs, why should it be any different with the disjuncture between nature and society? The answer is that this dichotomy is not just another analytical category belonging to the tool-kit of the social sciences; it is the key foundation of modernist epistemology. (Descola/Pálsson 1996: 12) Perhaps one of the most important and insightful explorations of the role of the nature/culture (society) dichotomy in Western thought is found in Latour’s (1993) work. Briefly stated, these dichotomous concepts have served two major purposes in ordering Western thought. First, they have allowed the hierarchical division of human and other(s) to function as ‘innate’ and ‘universal’, initially under the guardianship of theological foundationalism, i.e., God’s plan and a vertically oriented cosmology, then later simply as the Law of Nature. This transition in the model occurred during the Enlightenment and coincided roughly with the period in which absolute monarchies were loosing their grip on Europe. As a result, a new type of foundationalism was required, reflected in Linneaus’ choice of the Great Chain of Being as the classifying mechanism for all of nature and humankind (cf. Schiebinger 1993). Thus, in this new type of foundationalism, social hierarchies were based, not on God’s plan, but rather on an unchanging and universalist concept referred to as nature: justifications of existing inequalities were based on the hierarchical order attributed to nature and, in turn, dictated by it. Similarly, in the 18th and 19th centuries, pre-Darwinian socioeconomic thought provided the ground for both Darwin’s ‘competition’ metaphor and for the same type of metaphors in the works of Spencer and other so-called Social Darwinists. Thus, although commonly viewed as mutually exclusive opposites, these two antithetical concepts are linked and mutually reinforcing: the nature/culture antithesis has played a major role in Western thought, where nature is used to justify culture, the prevailing socioeconomic order, while at the same time, the prevailing socioeconomic order, culture, is mapped onto this reified entity, things-in-themselves, called nature. In this conceptual circularity lies the reason for this dyad’s key foundational role in modernist epistemology (cf. again Latour 1993).

This dualism destroys meaning in the natural world, makes our lives pointless, and justifies environmental exploitation

Ratner 11 (Dena, Louisiana State University, Bhatter College Journal of Multidisciplinary Studies (ISSN 2249-3301), Volume 1, Number 1, 2011, Special Issue on Earth, Nature, Environment, Ecosystem and Human Society)JFS

There are two kinds of nothing that have a dangerous impact on the environment. One stems from dualistic philosophies that treat the outside world as that which has no meaning. Although dualism had been prevalent in Greek philosophy and Christian theology, Descartes built on the idea that nature has no intrinsic value to justify the scientific study and exploitation of nature. After all, why respect nature if it has no metaphysical value? The other kind of nothing is the one that Tolstoy and Camus wrote about; it arises when the world is divorced both from internal consciousness and from eternal value. When nature has no meaning, it is easy to conclude that life itself has no meaning. When life has no meaning, it does not matter if you throw away your can of coke or recycle it.  Nietzsche and Heidegger brought attention to western man’s corrupted view of nature and can be considered pioneers in environmental philosophy. Over the past thirty years, it has become increasingly difficult to ignore the consequences both kinds of nothing have had on our environment. The beliefs that nature is an exploitable nothing and that life has no meaning have justified and perpetuated the trashing of our planet. What followed from Descartes scientific revolution was the industrial revolution, a harbinger of ever more intrusive technologies, like factories and cars that sent pollutants into the earth’s air, land, and sea. Now we face consequences of global warming like draughts, more extreme weather, the melting of the polar ice caps, and rising sea levels. It is increasingly difficult to believe that we can exploit nature without feeling the negative effects. It seems that never before has our connection with nature been more strongly proven. Perhaps environmentalism is the thread that can restore a connection to the universe for those who otherwise believe in nothing. Stripping Nature of Meaning: In his Discourse on Method, Rene Descartes formulated the idea that nature is disconnected from man in modern and rational terms. By doubting existence outside of his consciousness, Descartes reasoned, “intelligent nature is distinct from corporal nature” (Descartes 27). Since God’s nature is perfect and of the intelligent variety, that meant that corporal matter is that which lacks god’s presence. Of course, the dualistic concept that matter lacks the essence of God is not original to Descartes. It is an idea, which was propounded by the Socratics and brought into Christian thought by Augustine. Compare Augustine’s concept of the origin of sin, “You made the man but not the sin in him” (Augustine 8) to Descartes’, “Though we often have ideas which contain falsity, they can only be those ideas which contain some confusions and obscurity, in which respect they ‘do not come from the supreme Being, but proceed from or participate in nothingness” (Descartes 29).  So why didn’t we see the same level of environmental devastation in Augustine’s era as now? In justifying his publication of his principles, Descartes also wrote, “Instead of the speculative philosophy now taught in the schools we can find a practical one” and justified using knowledge of nature to “make ourselves master and possessors of nature” (Descartes 45). Descartes takes the idea that nature has no meaning out of the realm of speculation and thrusts it into the realm of action. Descartes writings in the seventeenth century had an enormous impact on the scientific revolution and the subsequent industrial revolution. It seems no accident that the popular concept that nature is an exploitable nothing, along with advances in technology, made an unprecedented exploitation of the environment possible. The incipient stages of modern day air pollution started with the introduction of factories and widespread consumption of coal when, “virtually no one reckoned that burning coal or oil would tamper with our climate” (Henson 27). By adding carbon dioxide to the Earth’s atmosphere over the past 150 years, humans have altered the world’s climate (Henson 7). “After the mid-1800s, Earth’s climate took a decided turn for the warmer and by the end of the twentieth century it was clear that global temperatures had reached the highest temperatures seen in 1000 years” (Henson 216). The IPCC’s 2001 report break global emissions of carbon dioxide into four major sectors: Industry, Buildings, Transportation, and Agriculture.  These industries would not exist if it had not been for the industrial and scientific revolutions. Dualism provided a philosophical justification for the objectivestudy and the exploitation of nature.   The Impact of Nihilism: Descartes explained the presence of God rationally, but for thinkers who could not find higher meaning, the dualistic philosophy descended into cosmic and existential nihilism. Cosmic nihilism is related to dualism in that it denies the possibility of finding meaning in nature, “The cosmos is seen as giving no support to distinctively human aims or values” (Routledge Encyclopedia of Philosophy). When people believe that the world is alien to human value, the meaning of actions in the world comes into question as well. This view that life itself has no meaning is existential nihilism or, that which “negates the meaning of human life, judging it to be irremediably pointless, futile and absurd” (Routledge Encyclopedia of Philosophy). Both kinds of nihilism are dangerous for the environment. For a cosmic nihilist hog farmer, it does not matter if his hogwash flows into a local river because the river has no inherent value.  For an existential nihilist, there is no point in trying to clean up a planet from which she will inevitably and eternally depart.

This separation of the environment from society means that infrastructures will fail

Edwards 2 (Paul, prof @ Umich, “Infrastructure and Modernity,” p2-3)JFS

Yet on geophysical, or even long-term historical, time scales, infrastructures are fragile, ephemeral things. The Roman aqueducts still stand, but most have carried no water for many centuries. The global telegraph network, mainstay of world communications even into the 1960s, has been largely replaced by the telephone. On this long view, time shapes them, rather than the other way round. In geophysical time, cataclysms far larger than anyone now living has experienced have occurred with monotonous regularity, while even apparently gentle forces, such as continuously dripping water, exceed the capacities of technological control (for example, in the still- unsolved problem of long-term nuclear waste storage). Thus—returning to my point in the preceding section—the irregularity with which “natural disasters” occur can be seen (on human force and time scales) as one vehicle for constructing properties of a modernist “nature” (as dangerous, unpredictable, and/or inconvenient), thereby separating nature from infrastructure and framing technology as control. Yet in geophysical time, this same irregularity becomes a fundamental, predictable property of nature, deconstructing the separation between them by illustrating the permanent imbrication of infrastructure in nature. In other words, we might say that infrastructures fail precisely because their developers approach nature as orderly, dependable, and separable from society and technology — an understanding that is in fact a chief characteristic of modern life- within-infrastructure. Yet nature recalcitrantly refuses to agree to this modernist settlement. Alternatively, we could say that on long-historical and geophysical time scales, breakdown is a natural property of infrastructures, or instead a property of nature as infrastructure (on which all human-built infrastructures ultimately depend). Thus modernity can also be depicted as a condition of systemic vulnerability.

**The endpoint of dualism is nuclear annihilation.**

**Mack 91** (John E. Mack, M.D., Psychiatry @ Harvard, 1991 (*ReVision Magazine, Fall 1991,* Vol. 14, no. 2, p. 108-110, found at http://www.johnemackinstitute.org/passport/blowingmind.html)

In order to carry forward my argument, I will try to define the dominant Western view of reality in my own words, appreciating that this may be an oversimplification. The two pillars of this world view are materialism and mental dualism. According to the materialistic conviction, all that exists outside ourselves is the physical or “material” world apprehended by our senses. Everything other than this “objective” reality is “subjective,” that is, belongs to the realm of feeling, the psyche, the spirit, or something similar. Mental dualism is the ability of the psyche to experience separateness and difference, beginning with the distinction between the psyche itself and the material world. Dualistic thinking is characterized by the dichotomizing tendencies that we take for granted, such as stereotyping, the pairs of opposite words and phrases like good and evil, or black and white, that fill our language, and the insistence of parents that children learn to distinguish what is “real” from the products of their imaginations. The materialist/dualist version of reality has proved useful for Western society in its attempts to dominate the material world, other peoples, and nature. This philosophy has also led us to the brink of nuclear war — the ultimate expression of self-other division — and the extinction of many of the planet's many life forms, as human beings pursue their own material well-being at the expense of weaker humans, other animals, and plants. The Western world view is, however, under assault due to a number of scientific discoveries. These include research that has demonstrated the paradoxical and probabilistic ambiguities of matter and energy at the subatomic level, and contemporary studies of human consciousness that have shown us that what we have previously accepted as “reality” is but one of a virtually infinite number of ways of constructing or experiencing existence. It is a curious fact, perhaps reflective of the operation of some sort of universal intelligence, that the assault upon the Western world view is both scientific and exigent in nature. The Western view is contradicted by new knowledge of the physical world and the nature of the psyche, whereas the simultaneous urge to reject that view is demonstrative of imperative need in the face of the planetary crisis that humans have caused. It is as if our minds are being opened to new realities in some sort of synchrony with the conscious and unconscious, individual and collective, perception that we cannot go on as we have been without destroying life itself. Science, need, pragmatism, and morality have all fused. The established version of reality no longer “works” in all the operational and normative senses of that word. Stated more positively, facts that we are discovering about nature, and ourselves in nature, seem to correspond to the knowledge that will be required to preserve life and well-being on the planet. The new paradigm emerging from the current discoveries of laboratory science and consciousness research is in some ways embarrassingly old and familiar. This model embraces truths known to virtually all past cultures and most contemporary societies, however much the latter may be influenced by materialism and dualism in their pursuit of modernization, political power, and market advantage. How we in the West could have succeeded in forgetting this knowledge is one of the great untold stories of our time. Essentially what we are relearning is that intelligence and connection are pervasive, not only on this planet, but throughout the universe, and that complex relationships exist in the cosmos, ones that we are only beginning to grasp. Whether or not we accept the holographic model (the idea that the whole is contained in each part) of the universe, it seems clear that the universe functions like a vast, interconnected information system, in which an action or thought occurring in one part has an unpredictable effect upon other dimensions of the system. The central tasks confronting humankind at this critical juncture are to limit our destructiveness, to learn to live harmoniously in the natural world, and to discover the appropriate outlets for our remarkable creative energies. We will also need to cultivate, really to liberate, those capabilities of the psyche that allow us to experience the numinous in nature and to perceive realities beyond the empirically observable physical world.

Educational settings key to challenge the dualism

Goob 11 (Ecological Thoughtprint Magazine, http://ecologicalthoughtprint.org/2011/12/04/dualism-doesnt-make-sense/)JFS

Have you ever asked someone, “Where is Nature?  Where is the environment?”  How do you think they would respond?  How would you respond? One icy afternoon, from the heated confines of a classroom, I asked this same question.  Student after student repeated a similar motion.  “There,” they said, immediately pointing across the room to the half-frosted window.  “Out there.” Through the third-storey window we could see frozen oak leaves fallen from near-barren branches, sailing through the air until they softly landed in rolling hills of rust, amber and gold.  Further out, the inlet waters lapped at decaying logs washed up on the rocks.  Glimmers of winter sunlight peeked out from the edge of heavy grey clouds. I turned back to the students.  “Okay, what about in here?” I asked, waving my hands around the room.  “Is this Nature too?” They exchanged puzzled looks.  A few shook their heads in firm disagreement, glancing at the tightly sealed glass window. I continued.  ”Think about your body.  Your breathing.  Air is flowing in and out.  Where is the air coming from?  Where is it going?  If we open the window, what then?  Is ’Nature’ coming in?  What if we were to go outside to a tree and pick an apple and eat it?  You would say the apple is part of Nature, right?  What about as it enters your mouth, as you bite, as you chew, swallow, digest, and absorb?  The apple is in you — did the Nature-part of the apple disappear?  Or is it still there?  Is Nature in you?  Is Nature now a part of you?” Taking a step back, I looked at the entire class.  “Conversely, are you a part of Nature?” Blurring the boundary What I hoped is that students would begin to question a deep-seeded modern way of thinking known as dualism.  From a dualistic worldview, there is a clear division between the human world and natural world.  A concrete building is regarded as soundly in the human domain while a mountain is relegated to the realm of Nature — no matter that they are both composed from common aggregates of rock and minerals.  A pencil is of humans while a tree is of Nature — no matter that they share an “ancestry” of materials.  In this way of thinking, humans are seen as largely autonomous from the rest of the natural world; the environment is simply that — environs – one’s surroundings, that which lays around at a distance but not within.

Monism – nature is everything

Rolston 99 (Holmes, Dept. of Philosophy @ Colorado State University, Nature and Culture in Environmental Ethics, http://lamar.colostate.edu/~hrolston/nature-culture-ee.pdf)JFS

In one sense, "nature" is quite a grand word, referring to everything generated or produced. Natura or physis is the source from which all springs forth. So comprehensive a term becomes troublesome. Is there a contrast class? If one is a metaphysical naturalist, then nature is all that there is. Used in this universal sense, claiming that "everything is natural" is about as informative as insisting that "everything that is, exists." Metaphysical naturalists may need the word in this sense for their cosmological purposes. Humans and all their activities will be included; humans are generated within nature and they break no natural laws. Everything technological will, on this meaning, be completely natural. So will everything industrial, or political, or economic, philosophical, or religious.

CCR CP

Status quo allows contractors to escape contractor regulations as long as they show a “good fair effort” – this includes advertising about “minority issues” – the perm lets companies get away with discrimination

AKDOT 13 (Alaska Department of Transportation, Civil Rights Office, http://www.dot.state.ak.us/cvlrts/ccr.shtml)JFS

<john: yes the card does not say “contract compliance review,” but the article is FAQ on CCRs>

If the contractor is not meeting the federal EEO objectives, but has demonstrated they are performing the contractually required good faith effort (GFE), the contractor is found in compliance. The contractor must be able to document their GFE efforts to meet the federal objectives for female and minority employees. This can be done through a variety of methods to include: requesting female/minority dispatches from the union, advertising through various publications or newspapers, directly contacting female/minority organizations soliciting interest in construction trade positions. There are many options available.

2. US code proves you gotta contract!

DOT no date (http://www.fhwa.dot.gov/construction/cqit/contract.cfm)JFS

Title 23 U.S.C. 112 requires the use of competitive bidding for Federal-aid highway construction contracts unless ". . . the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists." For Federal-aid highway construction contracts, contracting agencies have the following options:

Gotcha – there’s an exemption for all work that occurs for national security – no way the CP is normal means

Brody 13 (Obeidy, Lawyer, http://www.bomlegal.com/Employment-Law-Information-Center/Employment-Discrimination-in-Construction-Contracts.shtml)JFS

The following types of contracts and subcontracts are exempt from the Executive Order: Those not exceeding $10,000; Those for indefinite quantities, unless the purchaser has reason to believe that the cost in any one year will be over $10,000; and Those for work that is performed outside the U.S. by employees who were not recruited in the United States. Specific exemptions may apply to the following: Contracts and subcontracts with certain religiously-oriented educational institutions; Contracts and subcontracts for work on or near Indian reservations; Contracts and subcontracts involving national security, if the head of the contracting agency determines both that (1) the contract is essential to national security, and (2) noncompliance with a particular requirement of the Executive Order or the regulations with respect to the process of awarding the contract is essential to national security; Specific contracts or subcontracts, if the Deputy Assistant Secretary decides that special circumstances in the national interest require such an exemption; Contractor facilities not related to contract performance, as determined by the Office of Federal Contract Compliance Programs (OFCCP) within the Department of Labor's Employment Standards Administration; and Contracts or subcontracts with state or local governments, except for the specific government entity that participates in work on or under the contract. Moreover, contractors or subcontractors that are religious entities may grant employment preferences to individuals of a particular religion to perform work connected with carrying out the activities of the religious entity. Basic Provisions/Requirements The Executive Order and the regulations require covered contractors and subcontractors to refrain from discrimination and take affirmative steps to ensure that applicants and employees receive equal employment opportunity regardless of race, color, religion, sex, and/or national origin.

1. Debating about procurement contract strategies is key to policy education

World Bank 12 (http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/Procurement%20Innovation%20Challenge\_Background%20Note.pdf.)

Public procurement is an essential government function. According to the OECD, public procurement can account for up to 5% of GDP in developing countries and averages about 20% of public expenditures. Perhaps most importantly, procurement can provide a means for socio-economic development and some measure of social equity, particularly in fragile situations. In developing countries, service delivery is important both in alleviating poverty and enhancing government’s credibility, and is the primary means by which goods and services are provided to constituents. High performing and transparent procurement systems are fundamental to guarantee cost-effective delivery of these goods and services for societies at large and particularly for the poor. We are facing a common challenge of capturing and sharing practical evidence of what are the similar and frequent challenges and what are the innovations working around procurement reform. In response to this, the World Bank Institute (WBI) in partnership with UN Procurement Capacity Development Centre (UNPCDC), Public Procurement Research Group, University of Nottingham Making Integrity Work (Tiri) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) have come together under a common objective of collecting practical experiences and facilitating learning and sharing on what has worked and on the lessons learned from efforts to overcome challenges when addressing procurement reform. Through the surfacing of innovative experiences and contributions to procurement reform it is intended to enhance the understanding and capacity of procurement professionals and reformers to develop and or improve public procurement systems. What do we mean by Innovative Approaches to Procurement Reform? ‘Traditional’ public procurement capacity typically refers to a combination of a country having (1) a legal and regulatory framework that determines what policies and procedures dictate procurement practices, (2) a oversight authority – independent or within the ministry of finance – that is empowered to regulate and refine practices, and (3) a basic training structure that certifies civil servants are knowledge in procurement processes. In most countries – even some of the world’s poorest countries – all or some of these factors exist, yet fraud, waste and abuse remain as major challenges. Innovative approaches to procurement reform build upon traditional capacity by enhancing existing or embracing new practices that are intended to make public procurement more open, fair, inclusive, transparent and accountable and leading to improved procurement performance. This may include greater use of information and communications technology (ICT), better access to and use of data in making decisions, the adoption of performance or results based processes, or establishing industry or sector-wide framework agreements for commonly purchased items. Fundamentally, innovative approaches to procurement reform transform existing capacity and capability to produce better development outcomes. There are four priority thematic areas that have been identified within the broader theme of Innovative Approaches to Procurement Reforms where the World Bank Institute (WBI) is investing extra effort to gather evidence of actions taken and of results and impact. The Procurement Innovation Challenge will consider only experiences which relate to at least one of the four priority thematic areas: Use of ICT to improve performance of procurement systems ICT systems can allow for active exchange of information, easing of processes and monitoring of procurement at every stage of the procurement cycle. Such information exchange and monitoring systems are critical in their ability to track planning, the exercise of authorizations, document transfer, communications between prospective bidders and officials, and all decisions that lead to contractual confirmation, and contract management, including contract variations during execution. Such information also includes Q&A, document amendments, notification of prospe ctive tenders, notification of actual tenders, large format document loading, bid uploads, bid downloads, etc, as well as requests for payments which are interfaced with budgeting systems. This window seeks to identify efforts to use ICT -- from broad-based computer networks to the use of mobile technology -- that has resulted in fairer and more inclusive, transparent and accountable processes that break down the barriers of access to information. Procurement reform in fragile and conflict affected countries and small states Procurement reforms in small, fragile and conflict affected states have been sporadic or limited in scope and impact to date, reflecting constraints in opportunity and capacity. However, there is growing recognition that well performing procurement system can help address a range of critical issues found in such countries, such as efficiency and effectiveness of government expenditures and service delivery to citizen and private sector development and increasing the trust threshold between government and its citizens. This window will seek to identify approaches to procurement reform that have led to real impact in fragile and conflict affected states. Managing procurement systems for enhanced performance The practice of public procurement tends to be dominated by procedures and guidelines that are established with good intentions of ensuring a fair process, which results in the awarding of contracts that provide good value-for-money. In practice, however, it is often the case that procedures and guidelines provide opportunities for malpractice and abuse. . Recent approaches to procurement reform suggest that evolving from procedurally-driven procurement (e.g. policies and guidelines) to standards-based procurement (e.g. timeliness and value) to outcome-based procurement (e.g. results and impact) are likely to lead to more efficient procurement and, therefore, better development outcomes. This window seeks to surface good practice experiences where shifting from a procedurally - driven approach has resulted in improved results in procurement, be it in the institutional structures or outcomes. Particular attention will be given to submissions that focus on using data and metrics to monitor performance and draw upon those results to design reform and implementation strategies. Contract monitoring to enhance openness, accountability and effectiveness of public contracts The award and implementation of contracts and concessions is critical to development. Poor choices about how contracts are awarded and implemented, and resources and revenues are spent can result in poor development outcomes. Public availability of contracts, civic engagement in procurement and contracting processes has been sporadic or limited in scope and impact to date, reflecting constraints in opportunity and capacity. However, there is growing recognition that greater public availability of contracts combined with monitoring of procurement processes and contract implementation by disparate stakeholders can serve an effective oversight function in controlling fraud, waste and abuse in public contracting. This is especially important in sectors that have the potential to shape a country’s overall development, such as education, health, infrastructure, extractive industries, and forestry. Creating a level playing field with open, transparent and fair processes for the award and implementation of contracts serves all sectors of society – government, private sector and citizens. This window seeks to identify activities that have promoted transparency and monitoring of contracts in particular using multi-stakeholder approaches. All four windows seek to feature experiences or case evidence that may demonstrate: - Participatory engagement of diverse stakeholders from public, private and civil society sectors in reform processes; - Enhanced transparency of contracts and in procurement process and outcomes; - Institutional or structural reforms that have lead to demonstrable improvements; - Use of political economy analysis to inform procurement reforms; and, - Use of data in making better decisions and monitoring performance; Why a Collaborative Challenge? The Procurement Innovation Challenge is a collaborative challenge to surface knowledge on innovative approaches to procurement reform that aims to expand and strengthen an existing network of stakeholders and practitioners interested in public procurement reform. This online knowledge collection mechanism seeks to promote practitioner participation from across sectors and regions and accelerate their exchange, analysis and identification of effective initiatives and policies that have led to procurement reform in diverse settings.

2. Specifically, debate about contract compliance is important and key to civic engagement

Davies 1 (Anne, Oxford University Press, http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1)JFS

The current compromise solution in both European and domestic law of permitting the use of contract compliance within limits is unlikely to appeal to the protagonists at either extreme of the debate. But what is most worrying is the absence of coherent and explicit public policy on this issue. At the European level, the commercial model of procurement, designed to prevent protectionism, sits uncomfortably with Community social policy. And at the domestic level, much of the current law is explained by attacks on left-wing councils by the Thatcher government. The policy on contract compliance at both levels would be more legitimate if it were more explicitly formulated after a full public debate. Public participation A second set of ‘public interest’ concerns arises in relation to public participation in government. Two different but linked criticisms were made. One was that contractualization in fact reduced or limited the accountability of public services to members of the public. The other was that contractualization was surrounded by a misleading rhetoric of *increasing* the responsiveness of services to their consumers. Contractualization required public bodies to adopt more ‘commercial’ modes of behaviour. It was therefore argued that their governance arrangements should be reformed along commercial lines. In the NHS, for example, Health Authorities were governed prior to 1990 by large boards of appointees who were intended to represent particular interests. The boards included members of the medical professions, local authority representatives (who had at least been elected to the local authority, if not to the Health Authority) and members of local patient groups. They were replaced in 1990 by much smaller boards of appointees with ‘business experience’, in the style of a company's board of executive and nonexecutive directors (Department of Health [1989](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-287)*b*; Ferlie *et al.* [1996](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-316)). Proponents of the reforms argued that the new boards would be more effective:[83](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-83) the old boards had been criticized for their lack of cohesion, strategic focus, and control over service providers (Day and Klein [1987](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-281)). Moreover, extensive citizen participation in the running of public services was argued to be unnecessary provided that those services were responsive to their needs (Hunt [1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-387); Wistow and Barnes [1993](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-501)). Commentators criticized the changes on several grounds. They challenged the way in which board appointments were made: the process was shrouded in secrecy and there was a suspicion that appointments **(p. 23 )**were being used to reward the government's political supporters (Stewart[1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-474)).[84](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-84) Moreover, they argued that business experience was not necessarily a better qualification for the task of, for example, rationing health care, than was the ability to represent some sector of the community (Longley [1990](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-400)), Most significantly, they argued that the reforms reduced the accountability of public bodies to the local community. Although the old boards were not democratically elected, the reforms heralded a ‘democratic deficit’ because they paid even less attention to notions of representativeness[85](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-85) than the system they replaced (see, generally, Ferlie *et al.*[1996](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-316)). Commentators also claimed that the reforms reduced public accountability by blurring responsibilities for service provision (Bruce and McConnell [1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-262)). One problem is that where services are provided by private firms, it may be claimed that the details of the contract are commercially confidential.[86](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-86) This may limit the public's access to information about the terms and conditions on which services are provided to them. Moreover, service users may be uncertain about whom they should complain to when things go wrong. An example will illustrate this difficulty. If the consumer brings an application for judicial review, which body should be chosen as the defendant? In some cases, this issue is straightforward. In a case against a Next Steps agency, for example, the agency has no legal personality separate from its parent department (Freedland [1994](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-327): 89; Harden [1992](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-349); 46). But it is rather more complex where the department has placed a contract with a private firm. One option is to give the department continuing responsibility for contracted-out services. This appears to be the effect of s. 72 of the Deregulation and Contracting Out Act 1994.[87](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-87)Thus, where the Act is used (it will be remembered that this is not mandatory) it is possible for the aggrieved citizen **(p. 24 )**to sue the minister, office-holder or local authority whose functions are being exercised by the contractor. The other option is to apply public law principles to the private contractor. As Craig ([1999](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-274)) points out, there is precedent for this in the sense that bodies performing functions on behalf of the government—such as the City Panel on Take-overs and Mergers—have been subjected to judicial review.[88](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-88) Indeed, the case for extending the application of public law seems even stronger where the body's relationship with government is more formal. But there is a problem which affects both these solutions. Would either party be allowed to argue, in response to the claim, that the other party was to blame? The minister might claim, for example, that the contract gave him or her no power to control the contractor's activities on a particular issue. Or the contractor might allege that it had not been given sufficient funds to maintain a particular level of service. The 1994 Act does not give the minister the former option: he or she is deemed responsible regardless. But it is important that the common law should not permit these arguments either. Otherwise, the contractualization of the service could provide a way of evading liability altogether; each side could simply blame the other whenever a problem arose. Of course, it would be necessary to determine *as between the parties to the contract* who is at fault, but this determination should not be allowed to affect the rights of consumers. Paradoxically, however, contractualization did not purport to reduce the accountability of public services to their users. It was surrounded by a rhetoric of consumer empowerment. This rhetoric is exemplified by the Citizen's Charter initiative, a relative late-comer to the ‘new public management’ introduced by the Conservative government in the early 1990s (HM Government [1991](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-362); Barron and Scott [1992](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-254); Willett [1996](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-499)). The Citizen's Charter set out general rights and expectations for the consumers of government services. Public bodies were required to publish information about performance and to institute complaints procedures to address consumers' grievances. Here, the complaint was that contractualization was not pushed as far as the consumerist rhetoric might have suggested (Bruce and McConneil [1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-262); Stewart [1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-474); Weir [1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-496)). It would have been possible, theoretically at least, to use contracts to shape relationships between consumers and public services, thereby giving consumers a clear set of enforceable rights.[89](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-89) **(p. 25 )**But the Charters were largely ineffectual: the Patients' Charter (Department of Health [1991](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-288); [1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-291)) contained a handful of legal rights enshrined in pre-existing legislation alongside a host of unenforceable aspirations.[90](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-1#acprof-9780198299486-note-90) And contracts were introduced only between public service purchasers and providers (Harden [1992](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-349)). Patients could not be parties to NHS contracts, for example, despite claims that the reforms would increase consumer choice (see, for example, NHSE [1994](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-428); [1995](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-429)*a*). If a patient was unhappy with a service, he or she would have to persuade the purchaser (a fundholding GP or Health Authority) to contract with another provider, or move to another GP with different purchasing policies. Of course, the very notion of consumer empowerment might itself be questioned. Consumers are not the only group with a legitimate interest in the running of public services: taxpayers and staff should also have a voice (Foster and Plowden [1996](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-bibliography-1#acprof-9780198299486-bibItem-324)). Nonetheless, it is important to recognize that the reforms did not offer the empowerment they proclaimed. Conclusion The advocates of government by contract focused on its potential to encourage the precise specification of service standards, a more explicit focus on costs, and improvements in performance as a result of market pressures. These issues are obviously important: both taxpayers and users benefit from the efficient provision of public services. But contractualization was controversial because its proponents failed to engage with the way in which the policy might affect other significant public interests. Should contracts be used to enforce social goals? How could contracts be introduced whilst empowering, or at least not disempowering, members of the public? These are difficult questions, but a well-designed contractualization policy would address them in an explicit and honest way. Conclusion Government by contract is an important modern phenomenon. Although contracts themselves are nothing new, they are being put to a variety of novel uses as techniques for organizing the internal relationships of government agencies, and for harnessing the efforts of private firms to provide complex combinations of assets and services to the **(p. 26 )**public sector. This chapter has explored some of the controversies surrounding government by contract: the concern that Parliament is unable to control the executive's decision to use a contract in a particular context; the concern that the law does not provide an adequate regulatory framework to protect contractors; and the concern that the contractualization of government has ignored important public interest values. These controversies are in various ways applicable to the internal, government contracts at the heart of this study. The government's power to reorganize its internal management structure along contractual lines appears to be an inherent capacity requiring no parliamentary scrutiny. Internal contracts are even less well regulated than procurement or PFI transactions, for example, because they are not legally enforceable. And the concern that contractualization may sideline public participation is particularly significant: much of this critique has developed in ‘internal markets’ within public services, such as the NHS. Chapter [2](http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198299486.001.0001/acprof-9780198299486-chapter-2) will introduce internal government contracts in more detail, and explore some of the controversies which particularly affect contracts in that category.

“Increase” is certain and immediate

Rogers 5 (Judge, STATE OF NEW YORK, ET AL., PETITIONERS v. U.S. ENVIRONMENTAL PROTECTION AGENCY, RESPONDENT, NSR MANUFACTURERS ROUNDTABLE, ET AL., INTERVENORS, 2005 U.S. App. LEXIS 12378, \*\*; 60 ERC (BNA) 1791, 6/24, lexis)

 [\*\*48]  Statutory Interpretation. [HN16](http://www.lexis.com/research/retrieve?_m=1fe428155fdfc9074f3623f0dae9d78a&docnum=14&_fmtstr=FULL&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=0ebd338d6a7793de8561db53b915effd&focBudTerms=term%20increase&focBudSel=all#clscc16)While the CAA defines a "modification" as any physical or operational change that "increases" emissions, it is silent on how to calculate such "increases" in emissions. [42 U.S.C. § 7411(a)(4)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=103&_butInline=1&_butinfo=42%20U.S.C.%207411&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=1f89a0e47b1996a5400e8d865d8da08a). According to government petitioners, the lack of a statutory definition does not render the term "increases" ambiguous, but merely compels the court to give the term its "ordinary meaning." See [Engine Mfrs.Ass'nv.S.Coast AirQualityMgmt.Dist., 541 U.S. 246, 124 S. Ct. 1756, 1761, 158 L. Ed. 2d 529(2004)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=104&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b541%20U.S.%20246%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=48f016ea3eabfdb898b67b348b11662c); [Bluewater Network, 370 F.3d at 13](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=105&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b370%20F.3d%201%2cat%2013%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=78fdfe9d48c7b91d7659b90c0198707e); [Am. Fed'n of Gov't Employees v. Glickman, 342 U.S. App. D.C. 7, 215 F.3d 7, 10 [\*23]  (D.C. Cir. 2000)](http://www.lexis.com/research/buttonTFLink?_m=8541fbf7a7f5554ca588059b132acd17&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b367%20U.S.%20App.%20D.C.%203%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=106&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b342%20U.S.%20App.%20D.C.%207%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=14&_startdoc=1&wchp=dGLbVlz-zSkAW&_md5=fb18ff0b92931ac00621d88dae997e67). Relying on two "real world" analogies, government petitioners contend that the ordinary meaning of "increases" requires the baseline to be calculated from a period immediately preceding the change. They maintain, for example, that in determining whether a high-pressure weather system "increases" the local temperature, the relevant baseline is the temperature immediately preceding the arrival of the weather system, not the temperature five or ten years ago. Similarly,  [\*\*49]  in determining whether a new engine "increases" the value of a car, the relevant baseline is the value of the car immediately preceding the replacement of the engine, not the value of the car five or ten years ago when the engine was in perfect condition.

**Investment is certain**

**Malik 8** **(**Mahnaz Malik, International Institute for Sustainable Development, Nov, 2008, “Recent Developments in the Definition of

Investment in International Investment Agreements”, PDF, KENTUCK)

The definition of investment in a large number of IIAs includes a requirement that the investment must be made in accordance with the laws and the regulations of the host state. This phrase prevents investments that would be illegal under the host state law from receiving protection under the treaty. A growing number of tribunals have reflected on this provision, and the limits to its scope have also emerged. In particular, tribunals have rejected host state arguments that the assets claming to be an investment under the treaty should be considered an investment according to local laws and regulations.

Investment has to be immediate

**CBO, 91** – Congressional Budgeting Office (“How Federal Spending for Infrastructure and Other Public Investments Affects the Economy – Trends in Investment,” CBO publication, July 1991, p. ix, available via google)

Investment, or capital spending, may be defined broadly as the expenditure of current resources to produce income or other benefits over some period in the future. Investment is distinguished from outlays for consumption, which are intended to provide immediate benefits. The federal budget and most other accounting systems treat all government outlays, even purchases of long-lived assets, as consumption because the purchases cannot clearly be shown to produce income as officially measured. Yet some federal expenditures clearly seem to be investments: like private investments, they produce a stream of economic benefits over time. The conventional definition of investment thus might reasonably be extended to include federal spending for physical infrastructure, some human resource programs, and research and development.

Substantial means certain and immediate

Words and Phrases 64 (40 W&P 759)

The words “outward, open, actual, visible, substantial, and exclusive,” in connection with a change of possession, mean substantially the same thing. They mean not concealed, not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which no merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain; absolute; real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including, admiring, or pertaining to any others; undivided; sole; opposed to inclusive.

“should” means certain and immediate

Summer ’94 [Justice Summer, Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn14]

¶4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling in praesenti.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287" \l "marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record. [CONTINUES – TO FOOTNOTE] [13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligation* *and to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) In praesenti means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is *presently* or immediately effective, as opposed to something that will or would become effective in the future *[in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).