With and Against Transparency: Taking a Critical Look at How “Transparency” is Taken Up in Data Justice Discourses

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Abstract

This paper critically looks at transparency as an accountability measure that is demanded from governance structures in data justice organizations. However, we need to consider how the politics of visibility asymmetrically affects marginalized communities as a result of their data being made visible. Often, appeals for transparency results in hyper-visibilizing the same communities that are already accompanied by intense undersight; therefore, I argue that we need to look beyond transparency to imagine alternative models of accountability.

Keywords: Transparency, Open Data, Data Justice
‘Transparency’ (to see through) is often one of the first calls that is made by policy reports and data justice organizations to demand accountability from governance structures, as well as corporations. Paradoxically, it is also taken up within the neoliberal political project: ‘transparency’ is a term that is becoming increasingly warped to sustain exploitative power relations and ideologies – as it creates the illusion that something that is seen, can be trusted. The first part of this paper will provide literature review on the critical stances taken up against transparency. In my analysis I will focus on the emergence of open data portals through various municipal and federal governments, specifically the City of Detroit’s Open Data portal, and look at the way the Detroit Digital Justice Coalition works with the implications of that transparency. Furthermore, I will also look at Simone Browne’s Dark Matters, to imagine the ways that one can reject certain forms of transparency altogether and embrace opacity as survival tactic. I argue in this paper that transparency initiatives need additional critical insight into the ways the politics of visibility already affect marginalized communities when it comes to data justice – one needs to consider the ethics of how people are both represented and treated as a result of their data being made visible. Calls for transparency must consider the many nuanced ways that the same bodies that are hyper-visible are also simultaneously accompanied by intense undersight when it comes to accountability. This paper is not necessarily committed to condemning transparency as a whole; however, it does look beyond the promises of transparency to examine alternative models of accountability, as well as personhood that does not have to be mediated through neoliberal structures of legitimation.

The word “transparency” can be considered to be floating signifier. Floating signifiers, according to Ernesto Laclau and Chantal Mouffe, are subject to an ongoing contestation over meaning and can be articulated to radically different political projects (Worsham, 1999). This implies that transparency has no essential meaning outside of the discursive formations that invoke it or the historical context in which it is situated (Valdovinos, 2018). While transparency is considered a rather mainstream, liberal democratic ideal, many leftist activists choose to invest in it as an anti-capitalist tool (Birchall, 2011). However, when critiquing transparency from a more leftist stance, transparency can also be critiqued for its complicity with neoliberalism. In this vein, Garsten and Montoya write that “transparency is closely linked to a neoliberal ethos of governance that promotes individualism, entrepreneurship, and voluntary forms of regulation and formalized types of accountability. It is powerful in that it is inscribed in political, financial and cultural documents, processes and policies that not only suggest, but push for, a certain normative order” (Garsten et al., 2008, pg. 3).

Clare Birchall, a key figure in critical transparency studies, outlines the two main critiques...
against transparency. First, there is the claim that transparency, when put into practice, has unintended consequences and does not deliver what it promises (Birchall, 2012). The futility of pursuing it is further shown when “a perfectly reasonable transparent policy in theory may in practice be circumvented and rendered redundant” – for this she takes the example of governments that counteracts a Freedom of Information Act with “over-zealous classification” (Birchall, 2012, pg. 5). The second critique against transparency is that there are unintended consequences of certain transparency measures taken against governance structures – for example, a committee whose members are aware that proceedings will be published will simply self-censor what is said (Birchall 2012). The third approach extends the second to claim that transparency policies can in fact result in the very opposite of their intended goals of creating awareness: the more information that is made available, citizens may feel as if they have less agency and ultimately feel less informed (2012).

Perhaps this is best summed up in the statement by Valdovinos saying that while the ideology of transparency is premised on a movement towards rectifying unequal flows of information that lay at the basis of relations of power and exploitation, it “simultaneously sustains a regime of hyper-visibility based on asymmetrical mechanisms of accountability for the sake of profit” (2008 pg. 1). Transparency has become such an uncontroversial value because it pretends to “regulate only the form, not the content, of social interactions: a principle that purports to be neutral, all the while imposing a morality upon both public and private life” (Alloa, 2018, p.47).

In this paper, I will be critiquing the effectiveness of transparency as a tactic, by focusing on the emergence of open data portals through various municipal and federal governments. Although the government data portals are similar and different in intriguing ways, I will focus particularly on City of Detroit’s open data portal and analyze its context within the larger open data philosophy of the U.S. Government. The Open Government Directive was first mandated in 2009, in which it was stated that the cornerstone of an open government would need to follow “the three principles of transparency, participation, and collaboration” (Orszag, 2009). Furthermore, the directive noted that “transparency promotes accountability by providing the public with information about what the Government is doing” (2009).

Considering that this was immediately after the Great Recession of the late 2000s, this “opening” of government datasets can be seen as a larger project to gain public trust in government, as well as public-private partnerships. The directive in fact hoped that this would increase the effectiveness as well as cooperation between “levels of government, and between...
the Government and private institutions” (Orszag, 2009). However, this is somewhat ironic given that at times the sense of trust from the public is further diminished by transparency measures that are taken by the government, as often there is a sense of disappointment following government disclosures (Alloa, 2018). Furthermore, here we can see how the principle of transparency is taken up to sustain neoliberal economic and governance structures even in the wake of its evident failure.

One could argue that the City of Detroit’s Data Portal also emerged under a similar climate of wanting to regain public trust, as well as influence a regrowth in economic development. It was first launched in 2015, immediately after the city had gone through bankruptcy the previous year. To briefly historicize, this was the largest municipality in U.S history to do so and the debt was at 18 billion dollars (Shueh, 2015). It was able to open the portal through a grant provided by Socrata foundation, who funded the portal for the next three years as a foundation for the city’s “data and transparency endeavors” (Shueh, 2015). The founder of Socrata noted that “Now in 2015 it’s indisputable that open data creates economic development” (Shueh, 2015). Words such as “economic development” and “revitalization” come up frequently when talking about the future of Detroit, but this type of development excludes input from the Black community who make up the majority of the city’s population.

It is crucial to note that, even though the goal was to eventually publish all public city data on the portal, the first initiative was to publish Detroit Police Department crime reports on an hourly basis. We can see how the concept of openness is then imposed back onto the citizen rather than reflecting any transparencies on part of the government. For example, one of the multiple crime datasets that is available in the Detroit Open Data Portal is the “crime viewer.” This allows the viewer to see all of the crimes that have happened in the city of Detroit (City of Detroit, 2015). The viewer can change the boundaries to council districts, police precincts, neighbourhoods, and down to zip codes. Furthermore, the dataset is very well equipped so that non-technical viewers can clearly focus on specific dates and locations and is colour coded by crime type. This is actually one of the most viewed datasets on the website, and citizens can immediately notice it as soon as they enter the portal. Katherine McKittrick notes that “uncomfortable relationalities are formed through these data sets” (McKittrick, 2017). She remarks that some geographies are called up as answers to problems (2017). These answers are a biased set of results that privilege whiteness and are reflective of the private interests (such as those who have investment in Detroit real estate development) that go into defining their parameters (Noble, 2018). And it is important to consider that algorithms do not do anything after finding this “answer.” These “problem” geographies will not be invested with
proper funding, or revitalization but the data – as is historically done – will be used as evidence to further neglect these places. Even though this type of dataset would never explicitly name Black people as criminal, McKittrick says “solving crimes often involves surveying or making Black and or impoverished geographies and claiming that this isn’t profiling because places, rather than people are being targeted” (2017). This is how social problems are resolved through calculations, equations and operations are “cartographically itemized racial codes” (2017). As one can see visualized in the crime viewer dataset, these algorithms take place as well as produce “criminal” places. Furthermore, even though this dataset is only showing crimes that have already happened, it is inevitable that this data will be fed into algorithms to find future “answers,” necessarily dehumanizing the individuals that are marked by those geographies: essentially the answer is already known and given in advance of the question that is asked through the algorithm.

However, by contrast there is of course no data presented on the fatal confrontations between the police and Black men, unnecessary 911 calls made against Black people, or other incidents of racial profiling, which have been receiving news coverage in recent years. The only dataset close to this type of accountability is the “DPD: Citizen Complaints” dataset that shows the citizen complaints received by the Detroit Police Department (DPD). However, they only show the non-criminal allegations of misconduct, and furthermore the dataset does not describe what the allegations are. It merely sorts them into classifications of allegations such as “procedure, demeanor, force, misconduct etc.” (City of Detroit, 2015). This was the only dataset in the entire portal – one out of 205 – that had race as a category. It is also significant that citizen complaints are disproportionately Black, while the officers being complained against are disproportionately white (City of Detroit, 2015). When looking at the data, it is clear that there is a pattern of discrimination that is validated by the 9,966 Black citizens who filed a non-criminal complaint against the police department (City of Detroit, 2015). Moreover, by making some things more transparent, these datasets are also hiding the work done by those who have collected and put together the data. There was not any information provided on the portal about who was involved in the data collection, and they remain unacknowledged under the guise of this revitalizing technology (Taylor, 2018).

These are instances in which the Detroit Digital Justice Coalition (DDJC) hopes that data “transparencies” can work as a potential social justice tool; however, they also point out that this openness is asymmetrical as there are many ways in which this data is used against the communities (DDJC, 2016). The DDJC is a group of Detroit citizens and organizations that believe “communication is a fundamental human right” (2016). They collaborate in ways to
secure that right through principles of “access, participation, common ownership and healthy communities” (DDJC, 2009). One of the things they organize are “DiscoTechs” where they provide a space to learn about the impact and possibilities of technologies within communities (2009). Their publication, the Opening Data zine, works to demystify questions around data and data justice.

One of the major tools that could be useful but is mostly used against the community is data mining. In the Opening Data zine, they note that data mining refers to the practice of searching through large amounts of data using sophisticated algorithms in order to discover patterns, predict likely outcomes, and create actionable information (DDJC, 2016). They also write that data mining “can help identify troublesome trends and clarify patterns of discrimination and inequality to better inform decision makers. But they also pose severe civil rights risks, especially for marginalized communities” (DDJC, 2016). This is where the politics of undersight paired with hypervisibility becomes an important factor. In order to be able to data mine and find patterns, you would need more than the one dataset – as seen in the Detroit Data Portal – that mentions “race” or any sort of information on police misconduct. Furthermore, the fact that some data is less available for certain places or groups of people increases the error for businesses and corporations trying to find patterns in these discontinuous datasets.

One example that DDJC provides shows that the data on extensive retail investment in suburban areas means that banks lending to businesses have a clear sense of the risk. Conversely, many urban neighbourhoods have not had significant retail investment in the last decades, meaning there is less information about store performance (DDJC, 2016). With less information, banks will judge the loans to be higher risk. Similarly, individuals who do not have a credit card or bank account will be considered higher risk, as there is less information about their past behaviour. Moreover, there is also a lot more data present on the types of crime that is present in certain zip codes and neighbourhoods (DDJC, 2016). Therefore, the obscurity of some types of economic data, paired with the hypervisibility of crime data puts marginalized communities at more risk to be predated on by banks who may offer discriminatory loan practices and developers who are already making plans for the city without their input. Although there is a lot more to say about risk that is beyond the scope of this paper, “risk” ties in well with “transparency” in its use in neoliberal discourses: both perpetuate a rhetoric in which risks such as “housing risks” or “credit/loan risks” and being transparent about these risks are mainly understood as individual problems for people to overcome rather than a structural problem. This is also a larger problem in the datasets because the numbers do not leave room for historical context. When looking at the rates of crime, or the data about land in the open portal, the
numbers do not suggest things such as how the subprime mortgage lending, the cause of the financial crisis, is a highly racialized process that targets minorities, or that the unemployment rate in Detroit during that time was nearly 30% (Thibodeau, 2018).

The DDJC also makes the important point that as a dataset’s size increases, so does the difficulty to glean knowledge from it. Currently Detroit’s Open Data Portal only has a few hundred datasets. However, cities like Toronto have datasets in numbers closer to 12,000, and it is specified that “government data is required to be made available in open, machine-readable formats, while continuing to ensure privacy and security” (City of Toronto, 2017). Most of these government websites claim that they are easy to view by “non-technical users.” However, they obscure the fact that people are unable look at these datasets in conjunction, the way well-funded tech companies can. Therefore, even though more and more knowledge is “open” and no longer hidden behind a paywall or locked in a private database, the onus is still on the individuals and the communities to actively develop the skills to be able to understand the datasets. One of the calls from the DDJC regarding open data is also to offer the data at a “human scale” – they claim that part of the reasons that corporations are able to be “transparent” and still manage to do things that are harmful to the community is because marginalized communities often do not have the resources to invest in understanding large amounts of data (DDJC, 2016). They write that “unfortunately, even when data is open, it still often remains highly abstract and difficult to translate into action on a human scale” (2016).

While looking at the ways community organizations are collaborating to work with this “transparency” and strategize on ways to hold the government accountable—others have theorized over the liberatory aspects of opacity. Scholars such as Simone Browne have critically examined the purported emancipatory potential of transparency through tracing surveillance technologies and embraces opacity instead (2017). In her book Dark Matters, Browne shows how a process of “digital epidermalization” occurs when bodies pass through various biometric technologies, which can also be considered a form of transparency-making (2017 pg. 117). Browne also contextualizes this violent transparency-making, by tracing it back to when Black and Indigenous slaves were made hyper-visible by the state requiring them to carry a light in order to walk through the streets (2017). However, they were also treated as a large mass, juxtaposed against white individuality. This can be seen in modern day surveillance methods in places such as airports, where poor, racialized bodies are often tracked through biometric technologies that extrapolate data, while those who are more privileged are validated through human interactions or are marked as trusted travellers.
Browne presents “dark sousveillance” as a way to situate the tactics employed to render “one’s self out of sight, and strategies used in the flight to freedom from slavery as necessarily ones of undersight” (2017, p. 21). One part of opacity is that it is an alterity that avoids being quantified and can be understood as a call for a different type of political legitimation – working against the state’s techniques of incorporation. This can be also be seen in the way the datasets in the Detroit Open Data Portal are presented as an investment toward economic development. There is the expectation and requirement that people as well as certain geographies needs to have data extracted from them in order to be situated as an object of potential investment. As such, opacity can be very much understood as oppositional to biometric technologies, which work to “reduce” or “understand” individuals to some universal model. It is in fact a refusal. Perhaps the current formation of the Detroit Data Portal as well as the role of algorithms in Big Data at large can be taken as a warning sign on the future of racial capitalism – where racialized people are used to acquire social and economic value – and we can use this as an opportunity to imagine other modes of being outside of these numbers.

Questioning the use of transparency also asks us to imagine the way words such as “risk” and “consent” are also mobilized in data justice movements and could perhaps push us toward alternative inquiries that are not based in reproducing the same exploitative structures. As neoliberalism continues to push economic modes of being further into our political and social life, transparency can be easily framed as a problem, rather than a widespread ideal. As algorithmic data production and surveillance technologies become more commonplace in daily activities, transparency also becomes inflected with the sentiment that “if you’ve done nothing wrong, you’ve got nothing to hide.” In the end, it can be concluded that transparency is only a useful critique if it is specific and situated in a larger political movement that has explicit aims. Lastly, even though transparency is presented as a political good, maybe in the wake of its disappointments lies an opportunity to consider how we can appropriate technologies to uphold opacity and secrecy in movement and community building.

References


