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Window Walls and Other Tricks of Transparency: Digital, Colonial, and Architectural Modernity

Jasmine Rault

Justin Trudeau has fashioned himself as the Truth and Reconciliation Prime Minister of Canada, promising to “deliver the fairness, justice, and real reconciliation that Indigenous Peoples deserve.”¹ In the acknowledged absence of those things, Trudeau has proposed the new Recognition and Implementation of Indigenous Rights Framework: “By including tools that oblige the federal government to be more transparent and accountable, we can build greater trust between Indigenous Peoples and government.”² How did transparency become the settler colonial version of justice? Answering this question involves tracking some of the ways that transparency has become a technology of communication, a medium whose message is honesty, accountability, truth, and justice. This essay offers a short history of this new medium, which involves modernist architecture, networked data, dispossession through consultation, and a lot of dead birds. I am thinking alongside scholars of Indigenous resurgence, especially Glen Coulthard and Audra Simpson, to understand transparency as a key communication technology in the colonial administration of recognition, which Indigenous people have seen through and refused for a very long time.³ I focus on the Toronto Dominion Centre (1969), Canada’s first and tallest walls of windows, designed by Ludwig Mies van der Rohe, to consider how Canada’s investments in architectural modernity mirror its investments in techniques, structures, and aesthetics of colonial governance, which both pivot around the matter of transparency.

The Toronto organization FLAP (Fatal Light Awareness Program) estimates that nine million birds are killed in “fatal bird-window collisions each year” in Toronto alone, twenty-five million across Canada, and between one hundred million and one billion birds across North America. As FLAP puts it, “Unfortunately, birds have no concept of glass.”⁴ Humans certainly do—a concept that transposed glass from a building material to a modern liberal medium of justice. Increasingly, calls for and performances of transparency have come

to seem synonymous with accountability, invoked as both an exercise of and challenge to power, serving suspiciously as what Emmanuel Alloa and Dieter Thomä call “perhaps the ultimate consensual value of our time.”⁵ But not for ornithologists and bird-safety organizations like FLAP, who have recognized that this conceptual matter destroys more lives than it supports and advocate for forms of justice that involve less rather than more transparency. What forms of life has the glass window wall asked us to sacrifice in the service of this most prominent and political aesthetic?

Mies van der Rohe had been dreaming of glass towers since 1921—well before they were ever possible. With the late nineteenth-century engineering developments for building in “ferroconcrete” (concrete coated iron and steel structure), Mies imagined wall-free buildings with “glass skin” to expose “high reaching steel skeletons,”⁶ and to serve as a clear rejection of buildings with opaque exterior load-bearing walls. In 1923 he explained, “These buildings are dishonest, stupid and insulting,”⁷ whereas glass-skinned buildings articulate what he called “*absolute truthfulness and rejection of all formal cheating*.”⁸ For Mies, and most modernist architects stirred by a fervor of European revolutionary enlightenment ideals, glass ensured not only truth but also freedom: “glass walls alone” he wrote, permit “freedom in spatial composition,” the realization of the “free plan,” the creation of “free space,” in short “a new freedom.”⁹ Glass skins are honest, smart, respectful, truthful, and liberating. Mies had to wait until 1969—the year he died—to realize this vision of high-reaching honesty with the TD Towers. He had of course seen the completion of his Seagram Building in New York City a few years before (1958), but in that endeavour he was, to use his own criteria, a stupid formal cheater—New York State fire regulations forbid the use of exposed steel, so they enclosed the structural beams in concrete and hung decorative steel to create the *style* or impression of transparency.

Nineteen sixty-nine was also a big year for the style of transparency in Canada. This was the year of the White Paper (or “Statement of the Government of Canada on Indian Policy, 1969”), commissioned by the other prime minister Trudeau (Pierre Elliott), in his commitment to building what he called “A Just Society,” and authored by then minister of “Indian Affairs and Northern Development” Jean Chrétien (who went on to become prime minister from 1993 to 2003).¹⁰ The White Paper, not unlike a glass wall, also stood for what it called “truth,” “openness,” and “freedom” in its proposal to eliminate Canada’s recognition of responsibility to Indigenous peoples, governments, rights, lands and treaties. Indigenous leaders immediately rejected the proposal. In Harold Cardinal’s 1969 book, *The Unjust Society*, he famously called it “extermination

through assimilation.”¹¹ The White Paper was ostensibly the result of eighteen “intensive consultations” with Indigenous leaders across the country from the summer of 1968 to the spring of 1969, with parliamentary ministers framing each meeting as evidence of a new era of “open communication” and “open dialogue” in the service of a Just Society.¹² If you read through the eighteen reports on the “Indian Act Consultations,” you find a record of Indigenous peoples’ refusal to take up the terms of the meetings, insisting instead on Treaty rights (which settlers and Canadian law consistently tried and try to ignore) and registering skepticism that these meetings would have any effect on the Liberal government’s policies at all. In response to the White Paper, the Indian Chiefs of Alberta published their “Citizens Plus” report, colloquially referred to as the Red Paper, which starts with a long preamble criticizing the government’s faulty concept of consultation: “With this concept of consultation . . . even if we just talked about the weather, [the minister] would turn around and tell Parliament and the Canadian public that we accepted his White Paper.”¹³ We might say that Indigenous peoples recognized this Liberal performance of transparency as much more of a wall than a window. Sara Ahmed writes about “diversity work” as a “banging your head against a brick wall job”¹⁴—and perhaps fighting colonial liberalism is a “banging your head against a transparent wall job”—where, as Ahmed puts it, the wall “keeps its place, it is you who gets sore.”¹⁵

While I am drawing attention to two historical moments linked by filial lines of Liberal federal government, my interests in colonial liberalism are less about any one political party than about shifted modes of governance through which settler colonialism is pursued, rationalized, and justified. Scholars have shown that liberal political philosophy has long been central to settler colonial projects of nation-formation and governance—where white possession constitutes the racial contract at the heart of the social contract, rationalizing, justifying, and fueling genocidal projects in the promise of freedom, equality, and justice.¹⁶ In this essay I focus on the discursive (political, digital, cultural) and material (architectural, technological) mobilization of transparency as a relatively recent trick by which old and ongoing forms of settler colonial violence try to pass themselves off as new forms of postcolonial justice.

If we read across political theory, architecture, and digital culture, we can see that “consultation” is one of these tricks of transparency, but so are glass towers and digital disclosure and consent conventions. While scholars have made the connection between transparency as a theory of communication and a principle of modernist architecture, I suspect the best way to garner a sense of the racial, gender, sexual, species, land, and nation-based violences that

transparency can enable is to trace the ways it has accrued cultural, aesthetic, and political value across various modes of deployment and especially in relatively contemporary, liberal forms of settler colonialism. I draw from several fields of scholarship—architectural history, urban ornithology, surveillance studies, media studies, critical race, gender, queer, and Indigenous studies—to make the rather simple claim that the style and aesthetics of architecture can contribute as much to the colonial racial, gender, and sexual order of things as styles of governance (like consultation). My work here hopes to keep media studies (including transparency studies) and architectural studies oriented to the question of how the design of our (digital and material) living space shapes (and is shaped by) settler colonial common sense. Mark Rifkin describes “settler common sense” as a condition of “everyday certainty” where

quotidian affective formations among nonnatives can be understood as normalizing settler presence, privilege, and power, taking up the terms and technologies of settler governance as something like a phenomenological surround that serves as the animating context for nonnatives’ engagement with the social environment.¹⁷

I want to draw attention to the role that transparency plays in the design of this settler affective space, both the phenomenological surround and the social environment.

If, as Patrick Wolfe explains, settler colonialism is “a structure not an event,”¹⁸ it is also a built structure, or an architecture that means to feel like a natural, inevitable, and inescapable environment. That is, this architecture is designed to make settlers feel at home on stolen land. As Eve Tuck and K. Wayne Yang explain: “Settler colonialism is different from other forms of colonialism in that settlers come with the intention of making a new home on the land, a homemaking that insists on settler sovereignty over all things in their new domain.”¹⁹ So I attend to the nonhuman networks of this architecture—in the form of animals (birds), technology (digital surveillance, content management systems), building materials (glass), institutional discourse (environmental policy, political declarations, and the law)—to trace the ways that transparency acts as a boundary between who gets sheltered and supported by this home and who gets framed as a threat outside its walls and windows, a quaint and picturesque image, or a pitiable but unaccountable victim of the elements. If my attention to these nonhuman networks resonates at all with posthumanism, it is led there by what Tiffany Lethabo King calls Indigenous and Black feminist “decolonial refusal” and “abolitionist skepticism,” which both interrupt the “mode of communication” by which the human is established and “illumine

the violence that structures posthumanist discourse.”²⁰ That is, my interest here is less in the networks that constitute the glass walls of settler colonial architecture than in their interruption, refusal, and abolition.

Transparency is a concept that seems both everywhere and curiously devoid of content, or nowhere. The *Oxford English Dictionary* gives us definitions of “transparent” that range from the literal, “having the property of transmitting light, so as to render bodies lying beyond completely visible,” to the figurative, “frank, open, candid” and “easily seen through, recognized, understood, or detected; manifest, evident, obvious, clear,” where all share an assumption of immediate, unobstructed visual or cognitive access to a thing, idea, fact. The OED online (the “Oxford *living* Dictionary”) includes a definition from computing that suggests something rather different: “(of a process or interface) functioning without the user being aware of its presence.” This paradoxical conflation of “completely visible,” “obvious,” or “easily detected” with something like the opposite, invisible to the human eye, difficult to detect, and leaning toward deceptive, is exacerbated by computing languages and logics. When so many of our relations to the factual, visible, and easily understood are mediated by computer processes and interfaces, computing languages, logics, and corporations, how do we disentangle the different meanings and uses of the concept of transparency? Or, and this is more to my interests, how do we track the entanglement of these different definitions from the pre-computer and pre-electronic age into the electronic computing and digital age?

In the past ten years or so, a whole field of critical transparency studies has emerged, with scholars historicizing transparency to its Enlightenment roots and into its most recent manifestations as a rallying catchall concept in calls for accountability from government agencies, municipal offices, police and border control; from corporations and financial institutions; from NGOs, community organizations, and artist/activist collectives—culminating in open access as a discourse for digital technocultural justice.²¹ As Claire Birchall puts it,

[Transparency] is presented as a universal, commonsensical good. As such, to question transparency in the “west” today is to be opposed to progress (conservative in the general sense); corrupt (if there is nothing to hide, why fear transparency?); or anti-democratic (the link between transparency and liberal democracy has become unassailable).²²

Performances of transparency are therefore increasingly used to signal progress, truth, and democracy—we can think of the selective publication of internal documents and reports from new “open data” government portals as well as online Securities and Exchange Commission filings by major corporations, and

the endless “transparency reports” from companies like Apple, Google, Twitter, and (reluctantly and partially) Amazon—ushering us into what Birchall calls “info-capitalist-democracy” where “data subjects are called on to be both auditor and entrepreneur.”²³ These reports are designed to address what gets called “asymmetrical transparency,”²⁴ where users/customers (public transit users, mall visitors, national or international travelers, subjects) are compelled to expose much more than providers/companies (or governments).

A recent example of this kind of asymmetrical transparency is provided by Cadillac Fairview, the company that helped fund the TD Towers in the 1960s and continues to manage it now, along with several shopping malls across Canada. In the summer of 2018, news broke that Cadillac Fairview had embedded cameras running facial detection software, hidden behind the glass panels of directory kiosks in their malls. A glitch in the system at a mall in Calgary (Chinook Mall) displayed the video facial analysis script across the kiosk screen, a photo of which was shared on reddit, prompting a (still-ongoing) investigation by the privacy commissioners of Alberta and Canada. Cadillac Fairview announced that it has “paused” the use of facial analysis cameras in the two Alberta malls where it was discovered but has said nothing about its twenty-one other malls. Of course, Cadillac Fairview is certainly not the only commercial or government organization to be running these programs. News outlets reported “Your Mall Is Watching You” as though this were the first time that “billboards looked back,”²⁵ to recall Shoshana Magnet’s account of 2008 advertising billboards using facial recognition technology from Quividi, designed originally for the Israeli military.²⁶ Facial recognition software, typically developed by and for police, military, and border control, has been adopted as the industry standard for DOOH (Digital Out Of the House) advertising, tracking information from age, gender, race, emotion, and—when combined with cell phone “packet sniffers”—income, spending, and travel habits through cameras embedded in bus shelters, billboards, directories, maps, and nearly any digital display that can be found or made. Cadillac Fairview adopts the explanation used by several DOOH technology companies, including Quividi, which presses the distinction between “facial detection” and “facial recognition,” between “analyzing” and “storing” these data. Cadillac Fairview explains that their cameras “provide traffic analysis” but that “these cameras do not record or store any photo or video content.”²⁷ France-based Quividi advertises its use of “anonymous measurements” and “facial detection software, *not facial recognition* technology.”²⁸ Even the EU’s recently adopted General Data Protection Regulation (GDPR), which sets the highest international legal standard for data protection, requires simply

that the company using facial recognition or detection software, collecting or analyzing ambient cell phone data, provide notification. If one hopes to visit a mall (or, increasingly, a bus shelter, a downtown square, a city street), opting out is not an option. While Canada's privacy laws have failed to adapt to the kind of data harvesting used by most DOOH companies (the laws have not been substantially revised since 1983, according to the current privacy commissioner of Canada, Danielle Therrion),²⁹ the solution to breaking privacy law is to implement a version of transparency: the malls using the technology would need simply to post a notice indicating that such tracking is taking place, to which entering the building would be taken as consent. This is a performance of transparency where we are expected to care more about the gesture of revealing than about what is being revealed—as though revelation itself were an inherent good.

The increasingly normalized situation wherein corporations (or governments) know more about us than we know about them is generally referred to as asymmetrical transparency, a concept that Rachel Hall usefully recasts in her work on transparency as a security aesthetic:

What if *asymmetrical transparency* referenced the asymmetrical ascription of varying degrees of transparency and opacity to populations based on a biopolitical racial norm that is not narrowly phenotypical but refers instead to the current symbolic markers of one's capacity to affirm life and futurity (reflexivity, docility, ability, efficiency, savvy, and capital) versus those qualities that mark one out as excluded from that collective and coercive project?³⁰

In Hall's work, transparency is asymmetrically ascribed not only according to race, as though this were a static state, but as a racializing technology—(re)producing and (re)naturalizing racial distinctions by the measure of one's capacity to affirm the life and futurity of valued populations and also popular values. That is, transparency is a biopolitical operation that produces as much as it refers to racial norms, who and what counts as collective life that needs supporting and protecting, or poses threats that need containing or eliminating. I want to think through the ways that this version of asymmetrical transparency has been deployed as a technique of colonial governance in Canada well before the digital age. The long history of the Canadian state's administration and production of the "symbolic markers" that affirm lives worth supporting is part of what Danielle Taschereau Mamers calls "settler colonial ways of seeing" or "means of re-presenting the territories, lives, and relations of what is now called Canada in forms visible to the bureaucratic gaze of the state."³¹ As Mamers explains, "The very processes through which Indigenous lives are made visible [to the Canadian state] are also the processes through which they are

targeted by settler colonial policies of erasure, assimilation, and elimination.”³² These settler colonial ways of seeing are central to the biopolitical techniques of colonial governance that have been proliferating in Canada since at least the 1867 British North America Act and Indian Act. However, I want to focus on the 1969 White Paper and the 1969 TD Towers as marking a shift in the architectural principles of Canadian colonial modernity, which pivot on new deployments of transparency.

Transparency Society

Mies was certainly not unique among architects of the twentieth century in his investments in transparency as a technology of truth, freedom, and modernity. As the architectural historian Anthony Vidler explains,

Modernity has been haunted, as we know very well, by a myth of transparency: transparency of the self to nature, of the self to the other, of all selves to society, and all this represented, if not constructed, from Jeremy Bentham to Le Corbusier, by a universal transparency of building materials, spatial penetration, and the ubiquitous flow of air, light, and physical movement.³³

Indeed, from Jean-Jacques Rousseau to Bentham, from Le Corbusier to Mies van der Rohe, the myth of transparency has held constructive and constitutive sway. Michel Foucault asks, “What in fact was the Rousseauist dream that motivated many of the revolutionaries? It was the *dream of a transparent society*, visible and legible in each of its parts, the dream of there no longer existing any zones of darkness.”³⁴ Indeed, Rousseau might have been the first modernist architect, declaring (in his best-selling 1761 morality romance novel, *Julie, or the New Heloise*): “For my part I have always regarded as the worthiest of men that Roman who wanted his house to be built in such a way that whatever occurred within it could be seen.”³⁵

These budding sentiments of the liberal era, or modern colonial era, provide the scaffolding for enfolded transparency into the architectures of justice. I turn again to Foucault as what Gayatri Spivak calls a useful source in understanding “the mechanics of disciplinarization and institutionalization, the constitution, as it were, of the *colonizer*.”³⁶ In the eighteenth and nineteenth centuries, Foucault notes that “the new aspect of the problem of justice . . . was not so much to punish wrongdoers as to prevent even the possibility of wrongdoing, by immersing people in a field of total visibility where the opinion, observation and discourse of others would restrain them from harmful acts.”³⁷ This leads to the popularity of Bentham’s architectural schematics for the Panopticon as

generalized houses of justice—as Foucault puts it: “If Bentham’s project aroused interest, this was because it provided a formula applicable to many domains, the formula of ‘power through transparency,’ subjection by ‘illumination.’”³⁸ As an architectural principle, transparency was always asymmetrical, designed to frame one’s “capacity to affirm life and futurity” and to coerce those marked as opaque threats into the light.³⁹

That is, transparency and illumination were never techniques of freedom from injustice but less spectacular (ideally invisible and self-administered) techniques for ensuring the maldistribution of freedom. In a “post-truth” era, the failure of techniques of transparency for ensuring justice is brutally obvious: it does not seem to matter how many times—in how many activist livestreams or police body cameras or citizen reports or broadcast news segments or photojournalistic exposés or juried trials or Truth and Reconciliation Commission reports—the “truth” is revealed or rendered unequivocally transparent, the transparency society can only ask for more transparency. There can never be enough evidence, enough revealed, exposed, enough shown to prove that damage has been inflicted, that suffering persists, that violence is unequally survived. In the frenzied apotheosis—or death rattle—of the era of transparency, both those of us oriented to something like anticolonial, Indigenous, Black trans feminist queer justice or freedom and those oriented to our eradication (or the gaslighting insistence that freedom and justice are *already here already achieved*) seem compelled to call for the same thing: more transparency.

Before the TD Towers, Mies’s first monument to transparency was the Farnsworth House, completed in 1951 in Plano, Illinois. The house was commissioned by Dr. Edith Farnsworth, who worked closely with Mies in the conception of the house, but somewhere along the way his version of transparent freedom came to supersede hers. Farnsworth was explicit about her discomfort in and dissatisfaction with the house, suing Mies for fraud and malpractice, detailing her criticisms in the press at the time.⁴⁰ As Farnsworth put it in a 1953 interview:

Mies talks about his “free space”: but his space is very fixed. I can’t even put a clothes hanger in my house without considering how it affects everything from the outside. Any arrangement of furniture becomes a major problem, because the house is transparent, like an X-ray.⁴¹

Living in transparency creates for Farnsworth a feeling of confinement, fixity rather than freedom, overexposure rather than openness. With no closets or closed spaces, the house forces her to consider her interior sense of comfort from the outside, which makes it “a major problem.” This is neither the first

nor the last time that the modern value of transparency would render the unequally distributed privilege of privacy—the privilege of having an unobserved interior life—viscerally unbearable. Farnsworth seemed keenly aware of the asymmetrical life chances that transparency secured.

Among Farnsworth's many unpublished poems, we can find one, dated 1960, transposing her experience in Mies's glass house as a chronicle of what FLAP would call a "fatal bird-window collision." The poem begins with being woken in the morning "to hear some flying creature hit the pane" and in the third and final stanza concludes:

The unseen wings are slipping down the pane;
 The splintered feathers agonize in vain.
 The moments pass
 And in the grass
 Below, there lies
 My hope, and dies.⁴²

The poem, titled "Artifact," never uses the word *bird* but instead seems to tease out Emily Dickinson's metaphor: "'Hope' is the thing with feathers."⁴³ Whereas Dickinson's three-stanza poem reads as an elegy to birds of hope weathering all storms, Farnsworth's three-stanza poem chronicles hope as "the wounded flying thing" who cannot survive the principal artifact of architectural modernity: "Why does it try / The solid smooth artifact to pass, / Why does it beat upon the glass?" She was both explicit (in the press and the courts) and metaphorical (in her poetry) about the living price of Mies's glass visions of freedom, but, with few exceptions, the story of the Farnsworth House continues to be told as though Farnsworth had nothing to say. The medium of transparency had become the message of modernity—it speaks for itself, and any objections to it would come to be cast as unsophisticated, backward, primitive objections to truth, honesty, and freedom.

As a 2012 *New York Times* article put it in a profile of FLAP's work at the TD Towers, "There is no precise ranking of the world's most deadly cities for migratory birds, but Toronto is considered a top contender for the title."⁴⁴ Of the one to nine million birds who die from impact with buildings in Toronto, FLAP estimates that the majority of these deaths are at and around the towers. In 2012 FLAP collaborated with Ecojustice, an environmental law firm, to sue Cadillac Fairview for being in violation of the Ontario Environmental Protection Act (EPA) and the Species at Risk Act (SARA). Cadillac Fairview is the real estate development and management company that helped fund the construction of the towers, with Bronfman family money, and continues

to manage the property (among many others). Ecojustice brought the suit not against the towers but against the Cadillac Fairview office complex in Don Valley, the Yonge Corporate Centre, after several years of FLAP ornithologists and volunteers collecting dead and injured birds (hundreds a day) from the buildings' perimeters and consulting the company on how to implement "bird safe" design solutions. Cadillac Fairview finally conceded when the lawsuit was scheduled to go to court. The judge hearing the case determined that while, yes, Cadillac Fairview's buildings were in violation of the EPA and SARA, the company was making substantive changes in design—installing window film to reduce transparency and reflection—and so found not guilty of the charges.⁴⁵ Immediately after this case was closed, Cadillac Fairview prohibited FLAP from monitoring or collecting birds at its buildings because FLAP refused to keep its findings confidential—that is, FLAP insisted on the information transparency that is apparently so important to Cadillac Fairview's corporate architectural aesthetic. But Cadillac Fairview *did* start advertising its green and bird-friendly designs across Toronto—becoming strategically transparent about the tax incentives it receives for being in compliance with provincial and municipal environmental policies—even as FLAP demonstrates, by continuing to collect dead and injured birds on the sidewalks around their buildings each morning, that their bird-friendly designs are ineffective and do not follow FLAP's recommendations.

These promotional strategies (some would call "green washing") can be understood as deployments of asymmetrical transparency, or, following Glen Coulthard's analysis in *Red Skin, White Masks*, what we might call nonreciprocal transparency that mirrors the Canadian state's since 1969. Coulthard writes that "while before 1969, Federal Indian Policy was unapologetically assimilationist, now it is couched in the vernacular of mutual recognition,"⁴⁶ a discourse of transparency that has transmogrified to better suit the performance of modern benevolent colonialism. Following Franz Fanon, Coulthard argues that

in situations where colonial rule does not depend solely on the exercise of state violence, its reproduction instead rests on the ability to entice Indigenous peoples to *identify*, either implicitly or explicitly, with the profoundly asymmetrical and non-reciprocal forms of recognition either imposed on or granted to them by the settler state and society.⁴⁷

Whether it be the consultations that led up to the White Paper or the consultations that led to the (initial) approval of the Trans Mountain Pipeline Expansion Project (2015–18); whether it be the state's public commitments to the Final Report and Calls to Action of the Truth and Reconciliation Commis-

sion (2015); or the National Inquiry into Missing and Murdered Indigenous Women and Girls (2016–ongoing), Canada’s modern colonial form depends on the deployment of nonreciprocal transparency: a performance and aesthetic of settler colonial openness, accountability to and care for justice designed to coerce Indigenous peoples into states of constant disclosure, readiness for inspection, and “consultation.”

White Paper: A History of Colonial Transparency

While the White Paper was rejected in 1971, adamantly and clearly by Indigenous peoples, and eventually and reluctantly by the federal government,⁴⁸ it marks the emergence of transparency as a key technique of settler colonial governance. The White Paper was consistent with long-standing Canadian colonial strategies to eliminate Indigenous people—through overt violence, physical and cultural annihilation, and land theft—but inaugurated a shift toward liberal and legalized violence, or dispossession through consultation, that couches itself in discourses of equality. The White Paper explains:

This Government believes in equality. It believes that all men and women have equal rights. It is determined that all shall be treated fairly and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his race.

This belief is the basis for the Government’s determination to open the doors of opportunity to all Canadians, to remove the barriers which impede the development of people, of regions and of the country.

Only a policy based on this belief can enable the Indian people to realize their needs and aspirations.⁴⁹

Equality, here, means eliminating “Indian status”—and along with it, Indigenous people’s territories, land rights, Treaty agreements and modes of self-governance—in the service of “opening the doors” and “removing barriers” to Indigenous peoples who are assumed to have aspirations of assimilation into the settler colonial state. As Peter Kulchyski puts it, with the White Paper, “A human right to equality became the battering ram that threatened to destroy Aboriginal rights.”⁵⁰ In Kulchyski’s account, the White Paper offers a concrete example of the ways that “human rights”—emerging from around the time of the Enlightenment and based in Western European values of possessive individualism, the foundation of capitalist legal frameworks⁵¹—began to serve as a colonial weapon in attempts to eradicate Indigenous rights, which are neither individual nor universal:

We do not all have Aboriginal rights, nor should we. Aboriginal rights stem from the struggles of Indigenous peoples. In a way, they could be seen as a specific form of customary rights, rights that developed over time through repeated practice of an activity, rather than abstract rights that reflect a notion of how all people are the same.⁵²

The White Paper signals a moment from which the Canadian government has not stopped insisting that the only path to justice and “reconciliation” is finding better ways to “recognise” the abstract equality (“human rights”) of Indigenous people.

Indeed, Coulthard points to the 1969 White Paper as the beginning of Canada’s contemporary colonial politics of elimination through recognition:

It was at this time [of the 1969 White Paper] that the entire policy orientation of Canada’s approach to solving the “Indian problem” began to shift from willfully ignoring Aboriginal people’s rights to recognizing them in the manageable form of land claims and eventually self-government agreements.⁵³

These management techniques have emerged in response to what scholars like Leanne Betasamosake Simpson and Coulthard identify as “Indigenous resurgence”⁵⁴ that might also be traced back to the time of the White Paper, which “inaugurated an unprecedented degree of pan-Indian assertiveness and political mobilization . . . a central catalyst around which the contemporary Indigenous self-determination movement coalesced.”⁵⁵ This mobilization continued into the battle for “Aboriginal rights” to be included in the patriated constitution of 1982 (now Section 35)—a constitution from which the Pierre Trudeau government tried hard to exclude Indigenous peoples. This second effort to eradicate Indigenous rights with the “battering ram” of “equal rights” was prevented by years of Indigenous organizing and activism in Canada,⁵⁶ the US and Europe (known as the “Constitution Express” of 1979–82),⁵⁷ and led to the legal management apparatus of “the duty to consult.” This “duty to consult and, if appropriate, accommodate” First Nation, Métis, and Inuit people is a legal requirement for any federal or provincial activity, projects, permits, or policies that might have “adverse impacts” on Indigenous peoples.⁵⁸ It is also a central technique of colonial transparency by which Indigenous peoples are asked to be recognized, consulted, and accommodated to death.

We might understand this “duty to consult” as what Audra Simpson calls “state-driven performance art,”⁵⁹ which rests on “the particular way in which law in colonial contexts enforced Indigenous dispossession and then, granted freedom through the legal tricks of consent and citizenship.”⁶⁰ According to the office for Indigenous and Northern Affairs Canada, a “meaningful consultation process is one which is”:

- carried out in a timely, efficient and responsive manner;
- transparent and predictable;
- accessible, reasonable, flexible and fair;
- founded in the principles of good faith, respect and reciprocal responsibility;
- respectful of the uniqueness of First Nation, Métis and Inuit communities; and
- includes accommodation (e.g. changing of timelines, project parameters), where appropriate.⁶¹

While this legal obligation to consult Indigenous peoples before implementing any plans or projects that affect them is better than no obligation, without veto power for Indigenous peoples, or the requirement of consent, the law prioritizes the state's performance of transparency rather than its responsibilities to Treaty agreements or Indigenous self-governance. This performance art demands a suspension of disbelief, wherein colonial force, violence, and dispossession disappear from the stage; Indigenous nations are supposed to have freely consented to enter into Treaty agreements with invading settler states and freely consented to submit to colonial law; and colonial law is "founded in the principles of good faith, respect and reciprocal responsibility."⁶² This is the sort of elaborate trick that "papers over the very conditions of force and violence that beget 'consent' in colonial contexts"⁶³: a classic sleight of hand that asks us to focus on the performance of transparency (which announces respect, reason, fairness, accommodation, etc.), hiding the ongoing conditions of force and violence in plain sight. Indeed, these "tricks of consent" might be understood as techniques of nonreciprocal transparency,⁶⁴ deployed to recast the violence of coloniality and settler occupation as civility, benevolence, truth, progress, democracy, and justice.

In the federal government's eighteen meetings with Indigenous peoples in advance of issuing the White Paper, we can see an early template for performances of settler colonial transparency. These meetings were what Jean Chrétien called "the first series of genuine consultations with Indian people in Canada,"⁶⁵ and the transcripts capture a tone—in both affect and content—of state-driven performance art that has become extremely familiar in settler colonial governance: acknowledgments of past mistakes, earnest promises of a new relationship of open and honest communication, declarations of humility and the desire to learn from Indigenous peoples. The first meeting, on July 25, 1968, in Yellowknife, opened with a message from Chrétien, promising that "members of Parliament will be told what the Indian people themselves feel the new law should say" and offering a "hope that these meetings will open new channels of communication between the Indian people and the government . . . [in] an attempt at consultative democracy."⁶⁶ Robert

Andras, a representative from the House of Commons, continued the meeting's introduction, explaining that he "look[s] forward to this assignment with great interest and considerable humility"⁶⁷ and read a statement from newly elected prime minister Pierre Elliott Trudeau: "I feel we owe a great debt to the Indian people of Canada and I want you to take a major role in finding out, identifying that debt and recommending to the government the policies that will begin to meet our obligations, those obligations we may not have met in the past."⁶⁸ These earnest soliloquies on indebtedness, humility, a new era of open communication, and Indigenous leadership gave way to a more chummy approach by the final meeting in January 1969, where Chrétien opened the show with a little comedy:

We decided that even if it is supposed to be an exchange of views it has been seldom that the Indian community could express themselves, and that we should let them talk and shutup [*sic*]. We have been doing the talking 100 for years, so perhaps it is time to give you the occasion to do the same thing.⁶⁹

He went on for another 1,672 words. Canada has been lamenting or chuckling about its colonial violence for at least fifty years now, offering what Simpson calls "dramaturgical solutions" to ongoing contemporary injustice by situating it in the past and promising a better future.⁷⁰ We were terrible before, but trust us now, we have nothing to hide.

Even in cases where Canada has failed in its "duty to consult"—for example, in the Federal Court of Appeals decision to repeal licensing for the Trans Mountain Expansion Project (Aug. 30, 2018)—the legal requirements are not to earn Indigenous groups' approval or consent for projects but for Canada to "engage and dialogue meaningfully."⁷¹ In this 2018 decision, the Trans Mountain Expansion was stalled by the court not because the eighty-three Indigenous groups consulted provided detailed and expansive evidence that their interests would be "adversely impacted" by the project—adhering to the performance of transparency, this evidence was carefully recorded, acknowledged, and made accessible on government websites—but because Canada did not meaningfully engage with or respond to Indigenous groups' evidence. What, for the court, constitutes "meaningful engagement and dialogue" is very difficult to decipher, but it does not need to involve agreement—"The duty to consult does not require the consent or non-opposition of First Nations and Indigenous peoples before projects like this can proceed."⁷² Consultation does not (and need not) equal consent. The project can proceed no matter what First Nations and Indigenous peoples have to say about it, so long as

there is transparent documentation that “Canada’s officials made every effort, as a first principle, to listen, to understand and to respect Indigenous views and perspectives, and to be responsive to those views and perspectives.”⁷³ The duty to consult means that the Government of Canada needs to show, to the Government of Canada, that it really tried. Since the White Paper, being seen to respectfully try to care about Indigenous peoples is the settler colonial version of justice—or the legal and political equivalent of “meaningful engagement and dialogue.” Canada’s consultations processes offer hallucinatory examples of colonial transparency that are not unlike the performances of transparency associated with digital technology: at issue is not *what* is being shown but *that* it is being shown. Canada’s “Consultation and Accommodation Reports” operate like “terms and conditions”: you don’t need to consent but you do need to accept. The performance of transparency in each case meets the legal requirements of truth, reconciliation, and justice.

Architectures of Colonial Transparency

Toronto in the 1960s was, in many ways, a very unlikely city to host Mies van der Rohe’s bold experiment in architectural modernity. The first TD Tower was completed in 1967, and, at 56 floors (222.8 meters) of bronzed glass and black painted steel, it announced a striking departure from the gray stone city over which it loomed (the second tallest building at the time was the 34-floor/141-meter Bank of Commerce, completed in 1931). The contrast is pronounced in photographs from the late 1960s.

Looking at archival photographs, it appears that first black tower fell on Toronto like the monolith in the film *2001: A Space Odyssey*. The old city of stone, brick, and wood, punctuated by a few office buildings and many church spires, was suddenly interrupted by a new age of steel and glass. It seemed that all of a sudden, Toronto was awoken from its slumber as a quiet, boring, Protestant provincial city, and began to emerge as an exciting cosmopolitan metropolis. . . . [The TD Towers serve as a] historic symbol of Toronto’s rise as an economic powerhouse and of a modern, global city.⁷⁴

Perhaps not unlike the monolith in Stanley Kubrick’s 1968 film, the towers materialized a new and at that time foreign technology—of transparency in this case, rather than the dense obsidian in the film—that would symbolize and enable a massive social shift.

As of 1971, the TD Towers were eliciting mixed reviews in Toronto, a city not known at the time for its culturally, economically, or architecturally adventurous character (which was reserved for Montreal). In an interview with Sydney

Bregman of B&H, the local architectural firm responsible for developing Mies's designs, the *Toronto Daily Star* notes that "Bregman is understandably sensitive to criticisms of the T-D Centre":

"It's the last project in which van der Rohe was actively involved, and the people of Toronto should realize what an honor it is to have it here in this city." To suggestions that the towers are bleak and forbidding, the windswept square below them inhuman and unwelcoming, he says: "you have to understand that it is an expression of our time, an expression of the machine age and the highly technological environment we live in."⁷⁵

Toronto did not yet understand the honor of hosting this great modernist architect's vision or the expression of our technological machine age time, of which architectural modernity had been declaring itself a part since at least the 1920s. Indeed, to those few who did understand, modernist architecture was not simply a stylized representation of new machinic technologies but was itself a functioning machine—for living, for working, for communicating.⁷⁶ An article from Canada's national newspaper, the *Globe and Mail*, proudly announcing the opening of "the tallest building in the Commonwealth,"⁷⁷ enumerated some of the technological innovations of the building, including its own post office promising next-day mail delivery; four mechanical floors dedicated to temperature regulation ("a capacity equivalent to making 7,000 tons of ice every 25 hours") "vital to the Toronto Dominion Bank's round-the-clock computing organizations"; and the flexible, clear open space that ensures "the T-D Centre will still be a good building 50 years from today": "so much flexibility has been built into it. The 40-foot clear span between the service core of each tower and its perimeter permits easy rearrangement of space."⁷⁸ These new architectural technologies for living in, expressing, and communicating the "machine age" were neither expected nor easily accepted in the late 1960s and into the 1970s, but by 2000 they were so well understood as central elements of transparent modernity that the *Toronto Star* could mobilize this discourse to summarize the transformative effects of the TD Towers: "In the glint of glass and steel, Toronto was ushered into the modern era."⁷⁹

Since the late 1960s, architectures of transparency have gone from "forbidding" and "inhuman"⁸⁰ to symbols of "powerhouse" global cosmopolitan modernity;⁸¹ from fumbling colonial experiments in "consultative democracy"⁸² or "extermination through assimilation"⁸³ to colonial rule through nonreciprocal recognition or consultative dispossession. They have also become ubiquitous in networked communication, information, surveillance, and "security" technology such that both physical bodies and data bodies rely on these asymmetrical

architectures of transparency to mediate our everyday, our access to sociality, information, transportation, commercial and public resources, and perhaps a sense of comfort and safety. Ornithological researchers and organizations like FLAP have been pushing hard against this architecture of modernity, orienting our futures to designs, technologies, and aesthetics that can redistribute life chances by refusing the cruel and killing obstacles that posture as transparency.

While Cadillac Fairview might not yet be employing the full range of bird-safe designs that FLAP and other researchers have developed, the 2012 court ruling has been precedent-setting, establishing that landlords, managers, planners, developers, and architects can be issued steep fines and denied environmental certifications (and so denied building permits and valuable tax credits) unless they invest in design strategies to interrupt or eliminate transparency. Toronto is now among many cities, provinces, and states across Canada and the US to require bird-friendly design for building permits and environmental certifications, and the American Bird Conservancy has pushed for such design to be included as part of earning the most-recognized industry standard of LEED (Leadership in Energy and Environmental Design) certification. The specific technologies of this design may vary across regional recommendations, but the principles remain the same: increase the ratio of “solid wall to glass” surfaces, eliminate “fly through conditions” (bridges, walkways, outdoor railings, glass corners), obstruct windows with exterior screens, shades, and shields, and incorporate “visual markers” to create “translucent or opaque” patterns on the remaining or existing glass.⁸⁴ These recommendations issue a fundamental challenge to the concepts and designs of openness and transparency, two of the key principles of modernist architecture and many other post-Enlightenment modern colonial projects. That is, these recommendations work as reminders that our architectures of transparency have always been nonreciprocal—communicating freedom and implicating justice for some, serving as constraint and normalizing death for others.

For those of us familiar with the fields of Indigenous and decolonizing, queer and feminist, Black and diasporic critical race studies of architecture, media, information management, digital platforms, and surveillance, this is not the first time we have encountered obstruction, opacity, screening, and blocking as life-sustaining tactics in this “dream of a transparency society.”⁸⁵ Indeed, as early as the 1920s, just as this dream was taking modernist architectural shape, nonheterosexual female designers and architects like Eileen Gray, and many of her contemporaries, queered designs for dwelling by screening, blocking, layering modernist principles like the open plan and the strip window—creating opaque modes of inhabitation to obstruct the transparency machines

that were fatal to the queer gender, sexual, and social modernities women like Gray cultivated.⁸⁶ If we include such histories in the story of architectural modernity, Edith Farnsworth is certainly not the first to push back against the uncomfortable fixity of free, open space.

Kim Christen's work on the Indigenous digital content management system (CMS), Mukurtu, and its challenge to the techno-utopian values of "information freedom," "open access," and "cultural commons" is especially instructive here.⁸⁷ Christen draws the lines of connection between these concepts and their long colonial legacies.

For many indigenous communities in settler societies, the public domain and an information commons are just another colonial mash-up where their cultural materials and knowledge are "open" for the profit and benefit of others, but remain separated from the sociocultural systems in which they were and continue to be used, circulated, and made meaningful.⁸⁸

In collaboration with Indigenous archivists, communities, and researchers from nations and communities around the world—including Warumungu, Maori, Squamish, Potawatomi, Zuni, and Maasai—Christen and the Mukurtu development team encountered "alternative ways of imagining information creation, circulation, and the practices of access."⁸⁹ Mukurtu is a digital CMS that prioritizes the "sociality of information and its reliance on, and embeddedness within, ethical systems of relation and action in which people negotiate the creation, reproduction, and distribution of knowledge"⁹⁰ above the supposed freedom of information. In practice, this means interrupting the normative digital cultural value of transparency—and protocols of one-click access and open, easily searchable, and accessible content—with design priorities that better reflect and enable Indigenous nations' or communities' cultural protocols (i.e., some materials may not be accessible to everyone; some materials may be accessible to some people only at certain times of the year, for specific purposes/uses, etc.). As one reviewer of Mukurtu explained,

The restrictions [on Mukurtu] also allow the visitor to better understand the culture. Why? You might think that the best way to experience that culture is to be shown all of it at once, but you should consider that men who live in this culture never get to see certain things. Think of it as a simulation of a culture. Use it to reflect on the assumptions you make about who is entitled to what information.⁹¹

While I do not want to stretch the metaphor too far, these digital designs away from colonial values of openness resonate with the obstructions, screens, and markers that characterize FLAP's life-saving interruptions to transparency.

Beyond digital archive design and what Christen calls “digital cultural heritage,” many artists and communities are not just resisting transparency but designing against it. Scholars and artists like Zach Blas and micha cárdenas have been developing network designs and analyses based in thriving practices of trans queer people of color to refuse the transparency architectures of digital capture, state (police, border) surveillance and daily violence. Cárdenas’s trans glitch, stitch, and mesh autonomy networks⁹² are technologies designed to support trans people of color’s “methods of modulating perceptibility . . . stitch[ing bodies], clothing, social bonds, codes, and concepts together with the aim of reducing violence.”⁹³ Blas builds from Edouard Glissant’s call for the “right to opacity”—an invocation to refuse liberal colonial modes of ‘understanding’: “If we examine the process of ‘understanding’ people and ideas from the perspective of Western thought, we discover that its basis is this requirement for transparency.”⁹⁴ For Glissant, this process of understanding is a “grasp” that reduces the singularity of people, ideas, the self, and (human and nonhuman) others to “obviousness of transparency” or the already-known and understood.⁹⁵ Blas’s media arts work on informatic opacity⁹⁶—including a *Facial Weaponization Suite* (2011–14), and imaginings of an internet “Beyond All Control Diagrams”⁹⁷—point us to new possibilities for agential nontransparency, for digital networks and technologies beyond the grasp of nonconsensual “understanding.” The works of Blas and cárdenas contribute to a reconfiguration of social architectures of justice beyond recognition or “the obviousness of transparency” and focus us on the viable mechanisms through which we can opt out of these optics.

Canada’s continued investments in these shifting techniques of transparency evidence the savvy persistence and proliferation of tactics of Indigenous resurgence and refusal. With each new press release from the current Trudeau government, settlers are asked to buy into and help perform the sincerity and efficacy of the Canadian state’s claims to transparent modernity and justice. Just as the TD Towers allowed Toronto to position itself in 1969 as a modern powerhouse city, contemporary governmental investments in these same architectures of transparency allow us to see the colonial nation’s fantasy version of itself. Rather than ask more of Indigenous resurgence, I think we need to continue to ask more from (especially white) settlers working toward anticolonial goals—Canadian whiteness needs to divest from discourses and architectures of transparency and the ongoing colonial (il)logics and violences they house and hide in plain sight.

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