The Sick and Speaking Subject and "Catching" Sense: A Phenomenological Approach to Consent in Health Research

by

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Abstract

In this thesis, I will take up the phenomenology of Maurice Merleau-Ponty and Iris Marion Young to elaborate a concept of "catching" sense, which I will then apply to consent in the context of health research. I provide a brief explication of Merleau-Ponty's overall project in Phenomenology of Perception and a detailed analysis of his phenomenology of language, and a brief explication of Young's project in Throwing Like a Girl and a detailed analysis of her concepts "inhibited intentionality and ambiguous" transcendence. I bring Merleau-Ponty and Young together to advance my concept of "catching" sense, which refers to the first instance of grasping a gesture. Merleau-Ponty's emphasis on embodiment in language lends itself to analysis of written consent forms and consent discussions, while Young's work on situatedness and being circumscribed lend themselves to analysis of difficulties navigating challenging tasks. I will argue that our aim in health research consent ought to be the cultivation of the patient into a capable speaking subject who has learned to "throw" and "catch" the senses meaningful to her situation.

General Summary

Phenomenology is a branch of philosophy that aims at describing experience. In this thesis, I take up the work of two phenomenologists, Maurice Merleau-Ponty and Iris Marion Young, to describe what it is like to consider consenting to participate in health research by reading a consent form and discussion the research study with a physician. Merleau-Ponty is known as the "philosopher of the body," and his work on embodiment and language is useful for describing a situation with a complicated written document and important verbal conversation. Young is known for her feminist work that describes how women may experience the world differently from men, and how this can lead to differences in how men and women develop certain skills or capacities. Using Merleau-Ponty's phenomenology of language, and borrowing some of Young's concepts, I show how patients may need to become capable of discussing complicated medical issues in order to make decisions about their situation.

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Introduction

This project aims at two objectives: first, to develop more explicitly the idea of "catching" sense that Merleau-Ponty raises in the *Phenomenology of Perception,* and with help from Iris Marion Young; and second, to apply the idea of "catching" sense to the situation of a patient making a decision about participation in interventional health research. The project is divided into major parts, each with three subsections. The first part concerns the phenomenological basis of my approach. It begins with a brief overview of Merleau-Ponty's phenomenological approach in the *Phenomenology,* and the second subsection is a more detailed account of speech and language. The third subsection is an overview of Young's article "Throwing Like a Girl," with a focus on two of the modalities of feminine bodily comportment she presents, *ambiguous transcendence* and *inhibited intentionality*. The second part begins with a description of the experience of a patient encountering consent information. The second subsection grounds this description in contemporary research on patient experiences with informed consent processes. The third subsection returns to Merleau-Ponty and Young by applying relevant phenomenological concepts to what was revealed by the description of patient experience. In conclusion, I provide a brief summary of the project and point to a further avenue for advancing this approach.

My goal for thematizing Merleau-Ponty's use of the phrase "catching" sense is not to highlight his use of a metaphor; rather, I am arguing that "catching" refers precisely to the mechanism by which the body schema first takes hold of something it

may later develop into a habit or a power. I argue that the body's ability to "catch" sense underlies each of the originary modes of the body, it is the same power that motivates our capacity to "catch" sense in movement, sense in gesture, and sense in language.

In terms of method, my focus is on the *experience* of encountering consent information and the *experience* of trying to understand it. This project is not concerned with the epistemic question of whether or not the patient has understood "correctly." Instead, I am focused on how the patient is situated in relation to consent information, and what it is like for the patient to receive, take up, navigate, and make sense of consent information. The health ethics research studies cited in part two are, in large part, concerned with objective measurements of patient understanding as well as objective measurements of patient experience. My intent is not to assess, validate, or criticize the methods or conclusions of these studies; rather, these studies help to establish the context in which clinical researchers are engaged in unpacking, understanding, and hopefully, improving, their approach to "obtaining consent."

Finally, as a point of reference for readers unfamiliar with health research consent forms, a typical consent form template is included as a reference.[1] Each consent form is specific to the study to which it pertains, so they vary accordingly. Certain features, however, are strict requirements, and in general the structure and language are similar across studies.

[1] Clinical Trial Informed Consent Form (ICF) Template used by the Health Research Ethics Authority (HREA) of Newfoundland and Labrador (April 2023) https://hrea.ca/wp-content/uploads/sites/12/2024/03/Clinical-Trials-ICF-April-2023.pdf

In chapter one, I will explain the specific concepts and arguments advanced by Merleau-Ponty in the *Phenomenology*, and the specific concepts and arguments advanced by Young in "Throwing Like a Girl," needed for my analysis of the practice situation surrounding consent to health research that follows in chapter two.

Chapter 1 On Merleau-Ponty, Language, and Young

1.1 Brief Overview of Merleau-Ponty's Approach

Phenomenology is a philosophical field that is concerned with describing the structure of experience as such. Merleau-Ponty's approach to phenomenology is characterized by his emphasis on the body and embodiment, and his rejection of mind-body dualism. The *Phenomenology of Perception* is structured as a dual critique against what Merleau-Ponty refers to as empiricism and intellectualism, two philosophical trajectories in the so-called Western philosophical tradition; the former advanced by empiricist and materialist thinkers, the latter by rationalist and idealist thinkers. According to Merleau-Ponty, empiricist and intellectualist philosophies commit the same fundamental error, that is, they both have an "unquestioned belief in the world".[2] The "experience error" (Merleau-Ponty 2012, 5), as it is called in psychology, leads both empiricism and intellectualism to miss the phenomenon of perception itself.

Merleau-Ponty's critique of empiricism is not that it takes the real world as given; rather, his critique is that empiricism takes what is given in experience in order to explain experience. Empiricism relies on what is perceived in order to explain how perception happens – but what is perceived derives from, and depends on, perception. An explanation of perception that relies on what is perceived cannot address what is prior to

[2] Maurice Merleau-Ponty, Phenomenology of Perception, trans. Donald A Landes (Abingdon, Oxon ; New York: Routledge, 2012), 5.

what is perceived. Taking the world as given is our normal experience – our perception gives us the real world. Empiricism, however, perceives certain rules as governing what happens in the world, and it makes the unquestioned assumption that these rules also apply to, and explain, the phenomenon of perception itself. Empiricism fails to recognize the circularity of using the given to explain how the given are given. An account of perception cannot rely on what is given in perception – perception could never be explained in the terms that it gives us.

Rationalism, on the other hand, treats subjectivity as the real world, and takes subjectivity to give the rules that explain perception. But it is perception that gives us the meaning of subjectivity. As it is our experience that gives us the meaning of subjectivity, subjectivity is derivative of perception. Our experience of subjectivity is, first and foremost, experience *of* something. As shown above with empiricism, any account of perception that relies on what is perceived is faulty as it reads the contents of perception back into perception itself; in the case of intellectualism, it takes up subjectivity (in contrast with empiricism, which takes up the laws of cause and effect) in order to provide an account for experience itself. Both intellectualism and empiricism commit the same error of experience: they do not notice their unquestioned belief in the world. Both take what experience gives them (for empiricism, the real world; for intellectualism, subjectivity) and try to explain experience in the terms of the thing that experience gives them.

An unquestioned belief in the world is how our experience operates normally, and Merleau-Ponty is not objecting to our taking the given as given. Rather, his critiques of

intellectualism and empiricism show that both operate on the basis of this prior, unquestioned belief in the world, and they borrow from this unquestioned belief without recognizing that they have done so. They do not notice how they have indebted their accounts to experience. Merleau-Ponty recognizes, however, that perception is an engagement between body and world; body and world fit together. The body believes in the world, and the world affirms the body. The given world is not the problem, but a philosophical account unaware of its indebtedness to perception cannot be trusted to account for perception.

The *Phenomenology of Perception* sets out to notice and describe perception. The endeavor to describe perception reveals perception to be a positive, generative, interactive engagement between the body and the world. Merleau-Ponty is interested in perception as a pre-reflective mode of the body, that is, perception takes place prior to our conscious reflection about ourselves or the world. This pre-reflective engagement is our normal way of being in the world. This pre-reflective mode is punctuated by instances of reflection. Merleau-Ponty inverts the "classical" Western framing of humanity and experience which centers thinking and reflecting by instead centering embodied, pre-reflective perception.

The *Phenomenology* begins with the "classical prejudices" (the empiricist and intellectualist traditions), and a grounding of the "return to phenomena," or in other words, how Merleau-Ponty will take up phenomena to advance his phenomenological method.

1.1.1 Classical Prejudices

Throughout the *Phenomenology of Perception,* Merleau-Ponty's strategy is to begin any given discussion by introducing the empiricist account of a particular topic, followed by the intellectualist account of that same topic, after which he outlines his own phenomenological approach to the topic. My intent here is not to provide a comprehensive account of Merleau-Ponty's critique of either empiricism or intellectualism, but to establish a context of understanding that would be sufficient to allow us to apply Merleau-Ponty's phenomenological approach to the practical issue of consent in health research.

Merleau-Ponty begins part one of the *Phenomenology of Perception* with a discussion of sensation. He claims that, by accepting the notion that sensation is simple and straightforward, "classical analyses have missed the phenomenon of perception" (3). The empiricist approach puts the emphasis on external, material operations and the laws of cause and effect, and the intellectualist approach puts the emphasis on internal, mental operations and how the subject synthesizes the given.

In both cases, what is given in perception is relied upon to explain perception itself. This is the "fundamental error," or "experience error" (5). The empiricist has perceived what she takes to be cause-and-effect between objects in the world, and so she imposes the laws of cause and effect on to perception itself. The intellectualist believes that any quality belonging to the perceptual given is a projection of mind onto world, but this has only relocated the problem, as it must now account for how these qualities arise in the mind and by what means we project them. Merleau-Ponty writes that the empiricist

and intellectualist "build perception out of the perceived. And since the perceived is obviously only accessible through perception, in the end we understand neither" (5). His phenomenological method is designed to evade this error, and to consider perception itself. In other words, Merleau-Ponty intends to *perceive perceiving*. It is challenging to look *at* what we look *with*, and this is the task he sets in the *Phenomenology*.

Having established the philosophical traditions to which Merleau-Ponty is responding, and his chief objection to them both, I will now outline two key aspects of his phenomenology: his taking up of Gestalt theory to describe perception, the body schema, and his account of the body as the "I can."

1.1.2 Gestalt Theory

In contrast with both empiricism and intellectualism, as he has explained them, Merleau-Ponty argues that perception is an embodied, lived experience: the perceiver is intimately intertwined with the perceived world, and perception involves an exchange and interplay between perceiver and perceived. Both empiricism and intellectualism tend to treat the perceiver as the passive receptacle into which the perceived is projected, or as the cognitive operation which projects the world out onto itself. Neither takes up both the perceiver and the world as actively, positively, engaged with each other.

"Gestalt" refers to an organization and structure of perceptual phenomena within perception. According to gestalt theory, our perception of phenomena is shaped by the

configuration and relationships between elements: a figure against a background.[3] The figure and the background against which it appears are each conceptual *wholes* – the figure has a contour which unifies it into a whole, and which distinguishes it from the background. Both the figure and background are immediately perceived as bearing *sense*.[4] According to gestalt theory, this figure-on-background tableau are what we perceive first, and they ground the details of what we perceive.[5] The theory of gestalt illuminates how we perceive and make sense of the world by organizing sensory content into meaningful patterns of wholes.[6]

To illustrate how this works in practice, let us consider our immediate perception of a painting: our initial perception is not of individual brush strokes or patches of color; instead, we perceive the figure depicted by the artist. We see the figure because it emerges against the background. It usually requires some reflective effort to notice, for instance, individual brush strokes or what is in the background. We do not immediately notice the details that make up the figure, nor do we immediately notice the background behind the figure, as these aspects do not seem to call out for attention, though we may notice them when we make an effort to do so.

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[3] "Consider a white patch against a homogeneous background. All points on the patch have a certain common 'function' that makes them into a 'figure.' The figure's color is denser and somehow more resistant than the background's color. The borders of the white patch 'belong' to the patch and, despite being contiguous with it, do not join with the background" (Merleau-Ponty 2012, 4).

[4] "The different parts of the whole – such as the parts of the figure closest to the background – thus possess, beyond a color and some qualities, a particular *sense*" (13).

[5] "[The figure] has 'contours' that do not belong to the background and that 'stand out' from it; it is 'stable' and of a 'dense' color, while the background is limitless and of an uncertain color; and the background 'continues' beneath the figure" (13).

[6] "Each part announces more than it contains, and thus this elementary perception is already charged with a *sense*" (4).

Our perceptual organization happens spontaneously and unconsciously, reflecting the tendency of perception to make sense of the world by grouping elements into meaningful configurations. Though we may perceive the brush strokes or individual colours first if we have not yet made sense of what is depicted in the painting – this is an experience of positive ambiguity, according to Merleau-Ponty. When we are perceiving something we do not yet recognize, there is an indeterminacy to our experience of it. Once we catch a hold of what is in front of us, we experience the scene clicking into place, like a moment where recognition occurs, and now we feel that we have caught on to what we see.

The concept of gestalt shows that perception is not merely a passive reception of sensory data but an active, dynamic process of making meaning and engaging with the world. By recognizing the gestaltic nature of perception, Merleau-Ponty offers a profound insight into the embodied nature of human existence and the interconnectedness between the perceiver and the perceived.

The structure of the gestalt, as outlined above, involves a figure which is focal to me, and a background against which the figure is distinguished. There is, however, another element: an "always implied third term" (Merleau-Ponty 2012, 103). *The perspective from which* I see the scene before me is needed, too. A figure against a background implies a spatial relation – to be *in front of*. Something can only be in front of something else if there is a perspective from which both are seen, and seen in relation to each other. When I sit in front of my desk typing on my computer, I am *in front of my computer* to someone who is standing behind me, and viewing my back. But if someone

was instead sitting on the opposite side of my desk, my laptop would be *in front of* me. The "in front of" relation exists only when there is a *perspective* that establishes spatial relations such as in front of, behind, over, under, and so on.

Merleau-Ponty has taken up insights offered by gestalt psychology on how we distinguish between foreground and background elements in visual perception. When we look at a scene, our attention is naturally drawn to certain focal points or figures while other elements recede into the background. I will return to the gestalt in part three of this work when I describe perceptually an encounter with a typical consent form used in health research.

The gestalt is the structure by which I visually perceive my environment. My perception of my environment is driven by what possibilities exist for me within it, and how I experience my body as capable of directing me toward this world.

1.1.3 The Body Schema

In this section, I will continue to elaborate the nature of perception, from which empiricism and intellectualism borrow unreflectively. As we advance our account of Merleau-Ponty's characterization of the nature of perception, it is important to note that, for him, the body is not an object of perception. The body is involved in perception but not as an object. The body's involvement in perception without being an object of perception is an important aspect of the nature of perception and its embodied character. Much of the early parts of the *Phenomenology of Perception* are concerned with situating

the body. First, the body is situated as a sensing, perceiving being. We find that the perceiving body's sensorial engagement with the world is active rather than passive. We also find that the body is situated within space. The positionality of the body in space instantiates space for me. That is, the position of my body is the anchor through which I experience spatiality as such.

According to Merleau-Ponty, I experience the spatiality of my body differently than that of objects in my environment. He writes, "the contour of my body is a border that ordinary spatial relations do not cross" (100). I do not experience my hand as "next to" my forearm in the same way that I experience a book as "next to" a notepad – there is a fundamental difference in how I experience the organization of my body compared with how I experience spatial relations between objects in the world. "I know the position of each of my limbs through a *body schema* [*un schéma corporel*] that envelops them all" (100-1). I know the location of my body in a way that is different from how I know the location of things around me – this latter capacity for orienting myself to objects in the world is contingent upon my pre-reflective, originary knowledge of where I am in space, my knowledge of where *I* am. I am not "in" space the way water is in a glass; rather, my being in space is what creates a spatial field for me, in which I become oriented. As Merleau-Ponty writes, when I use the term "here" to refer to my body, it "designates the installation of the first coordinates, the anchoring of the active body in an object, and the

situation of the body confronted with its tasks" (103). My bodily space is what allows for external space to exist for me.[7]

Similarly to how my perspective enables a figure to appear for me as emerging against a background behind it (the gestalt), my body functions to engender spatiality for me. My body is "the darkness of the theatre required for the clarity of the performance" (103). As my body anchors me within space, it establishes spatiality and the perspective from which I take up the world. From this positionality I orient myself to objects, to horizons, and to possibilities.

The body is not only a perspective on the world – the living body is oriented toward the world. The body does not experience itself as a set of parts related to one another through their positionality; rather, the body experiences itself as an active, indivisible whole ready to embark on its projects and to respond to the world's solicitations (127).

When a body is standing over and leaning onto a desk, this body feels itself most immediately in its hands and arms, in the pressure they put on the desktop, and how the weight of the body is felt in them. This body has not forgotten, lost sight of, or failed to sense the other parts of the body. Rather, the body's awareness of its hands and forearms envelops the body's awareness of its whole being (129). The body envelops all of its parts as an indivisible unity oriented toward the world: this is the *body schema* (127). My body schema is my experience of my body in the world: how I live through my body, and

[7] Put another way: my spatial body is the "zone of non-being *in front of which* precise beings, figures, and points can appear" (103).

how I am oriented to my world. The body schema animates the relation between my body and the world. When Merleau-Ponty describes how, in "normal" functioning, if I see someone move their left arm in a particular way, I am immediately given to projecting myself into or "irrealizing" myself in the model (142); this is because "the body schema is not merely an experience of my body, but rather an experience of my body in the world, and that it gives a motor sense to the verbal instructions" (142). My body schema is not just the reality of my body in this moment, in terms of its positionality, its orientation, and so on, but also its capacity to take up an "infinite of equivalent positions" by transposing itself differently.[8]

The body schema may be reworked and rewired to acquire a new habit (143). The body takes up a new type of movement and, through practice, incorporates that movement into its set of habituated tendencies so that they flow through me when a situation calls out for them. For example, when I look both ways before crossing the street, I do not need to consciously think to do so as it is an ingrained habit. Whenever I find myself about to cross a street, the situation of street-crossing triggers my looking-both-ways habit without any reflection or deliberation.

The body *understands* and takes up movement as a signification. Merleau-Ponty writes, the "body, as has often been said, 'catches' (*kapiert*) and 'understands' the movement. The acquisition of the habit is surely the grasping of a signification, but it is

[8] "The normal subject has his body not only as a system of current positions, but also, and consequently, as an open system of an infinity of equivalent positions in different orientations. What we called the 'body schema' is precisely this system of equivalences, this immediately given invariant by which different motor tasks are instantly transposable" (142).

specifically the motor grasping of a motor signification" (144). He gives the example of a woman wearing a hat with a long feather, and how she moves in such a way as to ensure the feather stays out of harm's way – and she does this without needing to think consciously about it once she has grown accustomed to wearing the hat (144). Movement that takes the feather to be an extension of her body is incorporated into her body schema. Her body schema has plasticity: it is adaptable and malleable to new ways of being. Her body schema is also resilient; that is, it retains its history and projects its habits into its present engagement with the world.

1.1.4 The body as "I can"

The body for Merleau-Ponty is a being-in-the-world. Being-in-the-world refers to a pre-reflective orientation toward the world. It is pre-reflective because it is the basis upon which reflection becomes possible. The orientation of the body is always already responsive to its milieu. The body "rises up toward the world" (104), finding itself in a situation and responsive to its situation. The body is not passive: it reaches out toward a world which is likewise reaching toward it.

Merleau-Ponty's notion of being-in-the-world refuses a dualism between the physiological and the psychical. Being-in-the-world is an "I," or "I can," with a material and social life. This I tends toward its world. The I is "not a psyche joined to an organism, but rather this back-and-forth" (117) between psyche and organism. Rather than categorizing some things as physiological, and others as psychological, and

presuming that members of these categories are mutually exclusive, Merleau-Ponty's notion of being-in-the-world instead recognizes that that psychological and physiological gear into each other and motivating one another. Physiology and psychology are entangled in a way that tolerates and requires ambiguity (115-6).

My body is my "I can." Merleau-Ponty's conception of the body as the "I can" offers insight into the embodied nature of human subjectivity. The "I can" highlights the active engagement of the body in the world. The body is a dynamic agent of perception, movement, and expression. The "I can" expresses embodied intentionality. For Merleau-Ponty, embodied intentionality reflects how our bodily actions are inherently directed towards the world. Unlike the dualisms that separate mind and body, Merleau-Ponty argues for an inseparable unity between perception and action, where the body serves as the locus of making meaning and engagement with the world.

Merleau-Ponty draws an important distinction between pre-reflective and reflective consciousness. While reflective consciousness involves explicit introspection and self-awareness, pre-reflective awareness refers to the immediate, non-discursive mode of experiencing the world through the body. The "I can" operates at this pre-reflective level, wherein our bodily capacities unfold without conscious deliberation.

Our bodily existence is always situated within a particular cultural, social, and historical milieu, shaping our perceptions, actions, and identity. The "I can" emerges in relation to the world, as our bodily capabilities are dynamically shaped by our surroundings and cultural practices. Through our embodied engagement with the world, we enact our subjectivity and participate expressively in being toward the world. For

Merleau-Ponty, sensing is a "living communion with the world that makes it present to us as the familiar place of our life" (79). The sensing body in communion with the world is my power to act within the world, my "I can".

1.2 Merleau-Ponty on Speech and Language

Having established an overview of some preliminary aspects of Merleau-Ponty's phenomenological project in the *Phenomenology of Perception,* this section will now provide a more detailed presentation of his account of language. It will begin with the classical prejudices, this time in the context of language, and will then address Merleau-Ponty's speaking subject and his phenomenological account of language, thought, sense, expression, and speaking speech and spoken speech; the holistic, phenomenological body in the context of language; gestures; and finally, "catching" sense.

1.2.1 The Classical Prejudices and the Speaking Subject

As he has done throughout the *Phenomenology of Perception*, Merleau-Ponty shows that both traditional empiricist and intellectualist approaches rely on *what we experience through perception* to account for *perception itself*. This means that "in both cases the conception of language is the same in that there is no 'speaking subject'" (179). Empiricist and intellectualist accounts of language focus on semantic or syntactic meaning to the exclusion of the person speaking, beginning with what has been said and not with who is speaking.

In order to account for language without referring to a speaking subject, both traditional approaches rely on "a circuit of third person phenomena" (180). In these models, "there is no one who speaks, there is but a flow of words that occurs without any intention to speak governing it" (180). By detaching the speaker from their speech, empiricist and intellectualist efforts miss how language is taken up and put to use; they miss how language is wielded by the speaker. The absence of the speaking subject will leave both empiricist and intellectualist accounts of language untethered to the moment in which sense is brought into being, intentionally, by a living body responsive to its situation and aimed at the world.

In the empiricist account, "the sense of the words is assumed to be given with the stimuli or with the states of consciousness to be named… speech is not an action, for it does not manifest the inner possibilities of the subject" (180). In this model, the speaker and listener are the place within which language happens, or they are that *to* which language happens. Speaker and listener are the passive environments in which linguistic associations take place on account of some external force, such as association, or cause and effect. Neither the speaker nor the listener is an active contributor to driving language; instead, speaker and listener are reduced to being the site in which some external force of language is exercised.

In the intellectualist account, "the word is no more than the envelope of genuine denomination of authentic speech, which is an inner operation" (182). In this model, the word is a package for the meaning or sense that is communicated with language. The word functions as an "external sign," of some "inner recognition" that functions on the

level of thought alone: "thought has a sense and the word remains an empty envelope" (182). The word is only an external vehicle for sense and meaning, one that is entirely arbitrary and not strictly necessary.[9] The intellectualist account attributes nothing at all to the word itself, except to treat it as an arbitrary container for the real, substantive elements of meaning. The result is that meaning is detached from the word that carries it, leaving meaning to exist as an inarticulable abstraction that lives only in the mind.

Summarizing both the empiricist and intellectualist approaches, respectively, Merleau-Ponty writes: "in the first account, we exist prior to the word as meaningful; in the second account, we are beyond it – in the first, there is no one who speaks; in the second, there is certainly a subject, but it is the thinking subject, not the speaking subject" (182). Empiricism reduces the speaking subject to a mechanism embedded in a causal chain of linguistic associations, and intellectualism reduces the speaking subject to a thinking mind.

Throughout the *Phenomenology*, Merleau-Ponty cites clinical writing about a particular patient, Schneider. Schneider was featured by Gelb and Goldstein in their psychiatry work (105); he was diagnosed with "psychic blindness," meaning that they found him to be "incapable of performing 'abstract' movements with his eyes closed, namely, movements that are not directed at any actual situation" (105). Schneider appears throughout the *Phenomenology*, as Merleau-Ponty calls our attention to Schneider's dysfunction in order to illuminate "normal" functioning. In the context of language,

[9] "The word is again stripped of any efficacy of its own, this time because it is merely the external sign of an inner recognition that could be accomplished without it and to which it does not contribute" (182).

Merleau-Ponty will explore Schneider's remaining capacities for language, and those that he lacks, to help us to understand the phenomenology of language and the speaking subject. At times, Merleau-Ponty refers to Schneider as "the patient."

Schneider is present throughout Merleau-Ponty's account as the nature of his illness exemplifies the distinction between pre-reflective and reflective modes of operation, and the fundamentally embedded nature of the body in the world. Schneider operates in the pre-reflective mode – he may respond to the demands of his situation, but is unable to abstract from his situation. His inability to take up a reflective mode of being shows the incredible extent to which our operations and ways of being are pre-reflective. In the case of language, Schneider's struggles are particularly clarifying as language is often taken to be an abstraction. Unlike movement or sexuality, where the embodied quality of experience is more readily apparent Schneider shows us how language is no less embodied, no less responsive to the calls of one's situation, no less an engagement with the world in the pre-reflective mode. Language and expression emerge spontaneously and creatively in response to one's situation; abstract language is derived from this original, earlier spontaneous language.

For Merleau-Ponty, the speaking subject is necessary to language. By noticing the speaking subject, he finds that sense and meaning cannot be separated from the manner in which words are used. He writes "what [Schneider] had lost, and what the normal person possessed, was not a certain stock of words, but rather a certain manner of using them" (180). The patient he references suffered from a medical problem that damaged his capacities for language. This patient's dysfunction highlights the "normal" functioning of

a speaking subject – "having" language is a matter of putting language to use. "Having" language is not akin to knowledge of a series of dictionary definitions; it is more like having certain skills ready to be deployed in a situation that calls for them. A speaker chooses and uses the "right" word the way a tradesperson chooses and uses the "right" tool from their toolbox.

Knowledge that a particular word exists, or having knowledge of the definition of a particular word, are not enough to enable someone to *use* the word. Merleau-Ponty explains this distinction with the terms "automatic language" and "spontaneous language." The difference is illuminated by a patient struggling with a form of aphasia:

> The same word that remains available to the patient on the level of automatic language escapes him on the level of spontaneous language; the same patient who easily finds the word 'no' to express a negative answer to the doctor's questions, that is, when the word signifies a present and lived negation, cannot pronounce it when engaged in an exercise without any affective or vital importance. (180)

Within this particular patient's condition, "no" is available for him only when the context is vital – when his situation *calls out to his "no"* and he is responsive to his situation by *aiming toward it* with his "no". He lives "no". By contrast, in an artificial exercise devoid of affective significance, his "no" is unavailable to him. This register of linguistic expression is distinct from the definitional meaning of a particular term. Merleau-Ponty notes that "behind the word we discover an attitude or a function of speech that conditions it" (180). The attitude or function is an expression of this distinction "between the word as an instrument of action and the word as a means of disinterested denomination" (180). Saying "no" as an "instrument of action" refers to

saying "no" as an active, responsive activity that takes place within the world in order to negate something real.

Merleau-Ponty emphasizes the power and intentionality present in the wielding of language by a speaking subject to account for the "miracle" of language.[10] In wielding the power of language, the body expresses and takes up sense.

1.2.2 Language, and Speaking and Spoken Speech

Language is how thought is accomplished. Merleau-Ponty writes, "speech does not translate a ready-made thought, rather, speech accomplishes thought" (183). Our thinking tends *toward* speech. Speech resolves indeterminacy in thought by bringing it concretely into the sensible world. For the orator, his speech *is* his thought – there is no division, there is no internal process that is translated into an external expression. Rather, he *thinks aloud*: "the orator does not think prior to speaking, nor even while speaking; his speech is his thought" (185). Speech is not a translation of thought. Merleau-Ponty writes "thought and expression are thus constituted simultaneously when our cultural assets are mobilized in the service of this unknown law, just as our body suddenly lends itself to a

[10] Merleau-Ponty titles subsection k of section six, "The miracle of expression in language and in the world". He finds that, "even more clearly" than with spatiality and bodily unity, language "leads us to recognize the enigmatic nature of one's own body" (203). Language is a "miracle" in that, in language, "existence is polarized into a certain 'sense' that cannot be defined by any natural object; existence seeks to meet up with itself beyond being, and this is why it creates speech as the empirical support of its own non-being. Speech is the excess of our existence beyond natural being" (202-3). I note his use of the term miracle, and his writing on existence seeking to "meet up" with itself via language, to emphasize the importance and power of language and the speaking subject within Merleau-Ponty's phenomenology.

new gesture in the acquisition of habit" (189). Thought and expression are not separated or separable; rather, they are entangled fundamentally, and the two are brought into being through the same operation by which any other bodily gesture or habit is acquired: as a power of the lived body as its unfolding in terms of a body schema.

When Merleau-Ponty writes that language is "like a wave that gathers itself together and steadies itself in order to once again throw itself beyond itself," (203) he is referring to the creative capacity of the speaking subject to create sense. Language is an expressive capacity of the speaking subject to bring meaningfulness into being in the sensible world. However, not all uses of language create new sense. Merleau-Ponty distinguishes between first-order and second-order speech, or "speaking speech" and "spoken speech."

Spoken speech refers to the use of already available means of expression: words and phrases with commonly understood meanings. Conversely, the instantiation of new expressions, their inaugural introduction, are what Merleau-Ponty calls speaking speech. Speaking speech refers to an originary expression: it takes up and makes use of the existing terms and syntactical relations, but it reconfigures them, or takes them apart and combines them again, in a new and different way. In this sense, language gathers itself (its existing terms, syntax, and so on) and throws them beyond itself by stretching or transforming the existing linguistic practices in order to express a sense. A cliché is an expression which has lost the power with which it was originally conceived, and serves now only to signify an established sense. Neither the speaking subject nor the listener

needs to do any work to understand a cliché: its sense and use were already available to both speaker and listener. Spoken speech "assumes that the decisive step of expression has been accomplished" (189-90). The decisive step is what is accomplished by speaking speech – the bringing into being of an expression. Having already been brought into being, spoken speech has no need to labour; it simply employs what it has already ready to hand. Conversely, a new turn of phrase combines existing elements of speech in an originary way.

In speaking speech, "the meaningful intention is in a nascent state" (202); this meaningful intention is born, or comes into being, through the expressive act of speech. Spoken speech, on the other hand, "enjoys the use of available significations like that of an acquired fortune" (203). To follow Merleau-Ponty's analogy, speaking speech does the labour of creating something new, whereas spoken speech makes use of what has already been made. Speaking speech is located precisely in the "ever-recreated opening in the fullness of being" (203). Spoken speech, however, does not partake in the creative capacity of the speaking subject.

At times, it appears that Merleau-Ponty reserves the term "speaking speech" only for expressions which are truly significant, that is, instances of speaking speech are "authentic acts of expression – those of the writer, the artist, and the philosopher" (203). These are the instances in which language "like a wave gathers itself together and steadies itself in order to once again throw itself beyond itself" (203). Such accomplishments of expression show the creative, productive function of speaking

subjects but they are not the only instances of speaking speech. The "first speech of the child" is, in this sense, like the "speech of the writer" (203) in that both are speaking speech.

So far, we have found that language is grounded within the speaking subject, who experiences and takes up language within her vital, lived situation. For the speaking subject, language is a means of maneuvering in the world. Thought tends toward its expression with language. Language is creative, throwing itself beyond itself, engendering new sense and meaning-making. On Merleau-Ponty's account, using language is not an epistemic operation but the taking up of a position within the world. He writes, "what, then, does language express if it does not express thought? It presents, or rather it is, the subject's taking up of a position in the world of his significations" (199). Language is an action of being-toward-the-world, language *is* being-in-the-world.

1.2.3 The Holism of the Body Schema

Merleau-Ponty's account of the body is holistic, and while there are distinct things we may say about different modes and aspects of the body and embodiment, we find consistent descriptions of how the body comes to develop habits and powers, and to take up and make sense of the world, across spatiality, sexuality, and language.

It is beyond the scope of this work to provide a thorough account of the body schema as outlined by Merleau-Ponty in the *Phenomenology*; however, a brief account of

the body schema is needed in order to explain what it means for the body to develop or cultivate a power or a habit in language. In this respect, the body schema will enable us to unify our analysis of motility and of language by recognizing that each originary mode of the body involves the same capacity for catching possibilities for the body schema.

To support an overview of the holistic phenomenological body in the context of language, I will begin by unpacking the opening section of part one, section six, "The Body as Expression, and Speech," as here Merleau-Ponty situates this aspect of his work within the broader project underway in the *Phenomenology of Perception*. He writes "we have discovered in the body a unity distinct from that of the scientific object" (179). He began the *Phenomenology* with an account of sensation, and the body's motricity, where he showed the intentionality and power of signification present in the body on the level of perception and physical orientation within the world. He continues, "we have just discovered, even in the body's 'sexual function,' an intentionality and a power of signification" (179). He is referencing the preceding section ("The Body as a Sexed Being"), in which he showed how something comes to exist for the body by virtue of its affective milieu.[11]

Notably, the "power of signification" is not expressed only through language – the "sexual function" of the body also shows its power of signification. We will find that, for Merleau-Ponty, sexuality and language are each originary modes in which the body

[11] "...if we wish to reveal the genesis of being for us, then we must ultimately consider the sector of our experience that clearly has sense and reality only for us, namely, our affective milieu. Let us attempt to see how an object or a being begins to exist for us through desire or love, and we will thereby understand more clearly how objects and beings can exist in general" (156).

engages in signification and expressivity. The "deliberate act of signification," speech, is embedded within the holistic, intentional whole of the body – this is to say, language is not the only means through which we express, or create meaning, or understand sense. The body itself is intelligent, and its power of signification is present in its motricity, its sexuality, and its language.

Once Merleau-Ponty establishes the problems with the empiricist and intellectualist approaches to language, and he begins to outline his phenomenological approach to language, we find that his approach to language is aligned deeply with his account of bodily spatiality and movement. For Merleau-Ponty, language is a part of my world. The capacity to reckon with language, or to put it to use, can be understood in the same way that we understand the power to walk upright, or the power to manipulate tools: each is an expression of the body's directedness toward the world. Merleau-Ponty writes about "the near presence of the words that I know," and how "they are behind me, like the objects behind my back or like the horizon of the village surrounding my house; I reckon with them or I count upon them" (186). A particular word may be deeply familiar to me, and have a well-worn place in my linguistic toolbox, always handy, and a regular go-to when I find I need it. Another word may instead feel unapproachable; I may have some sense of it, but it feels unwieldy to me. I feel uncertain when I put it to use, as if, when I take it up, I do not trust myself to use it well in the same way that I may not trust myself with a tool I am not practiced in using. I may use such a word reluctantly, only when familiar alternatives are not available to me. Merleau-Ponty encourages us to think

of words like equipment.[12] His discussion of gestures will help to situate further why we ought to approach language similarly to how we approach bodily movement or using equipment.

1.2.4 Gestures

Gestures are expressions. Merleau-Ponty writes about gestures, beginning with physical or emotional gestures, followed by linguistic gestures. He invites us to "consider an angry or threatening gesture," in which context he notes that we "do not perceive the anger or the threat as a psychological fact hidden behind the gesture"; instead, we "read the anger in the gesture. The gesture does not *make me think* of anger, it is the anger itself" (190). The gesture is not a sign, it *is* its meaning. Gestures *are* the sense they express.

The sense of the gesture is apparent to me because it is meaningful within the field of my experience. That is to say, our understanding of gestures is related to our being within a situation. The sense of a gesture exists for us within our situated perspective. For example, we do not understand the mating gestures of animals or insects, as it is human gestures that are meaningful to us within our specific cultural and historical milieu.[13]

[12] "The word has a certain place in my linguistic world, it is part of my equipment" (186).
[13] "I do not 'understand' the sexual gesture of the dog, and even less that of the beetle or the praying mantis" (190).

Unlike our perception of a thing (such as a rug), our perception of gestures relies on the meaningfulness of its sense *for us*. On this distinction, Merleau-Ponty writes that "the sense of the gestures is not given but rather understood, which is to say taken up by an act of the spectator. The entire difficulty is to conceive of this act properly and not to confuse it with an epistemic operation" (190). Unlike the appearance of a rug, which is given to me, a human gesture of anger is *not given to me* but *taken up by me*. The gesture comes to be and I move toward it to take up its sense. This is not meant epistemically – it is not a judgment about the truth of the gesture; rather, it is my body's perceptual engagement with my environment which takes up the world. My perceptual engagement is a reciprocating exchange with the world.

Moving now to speech and gesture, Merleau-Ponty writes: the "linguistic gesture, like all others, sketches out its own sense" (192). We will find that the linguistic gesture functions just as the physical or emotive gestures do; that is, they are taken up and understood not as an epistemic act but as a reciprocal and active engagement with one's world. Understanding the gesture is something I do *with* the gesture. The linguistic gesture calls out to me, and I go to meet it. As the verbal gesture sketches out its sense, it projects a "mental landscape" that, unlike the natural world, is not immediately given. This is where "culture offers what nature does not provide" (192), as the verbal gesture "intends a mental landscape that is not straightaway given to everyone, and it is precisely its function to communicate this landscape" (192). My "mental landscape" is not apparent to those around me so I use linguistic gestures to bring some part of my mental landscape into the sensible world, making it available for others.

Merleau-Ponty notes that there is a tendency to categorize gestures as either "natural signs" or "conventional signs." This dualism divides what is natural from what is a human, social construct. In this model, the emotional gesture is considered the former and the verbal gesture, the latter.[14] On this account, we may consider as natural signs physical gestures that communicate emotion, such as "the smile, the relaxed face," or the angry, waving fist. We may find that these natural signs are themselves possessed of the "rhythm of the action or of this job as a particular mode of being in the world" (192). There is an immediacy here – my smile *is* the expression of my happiness, it is one way in which my body lives my feeling of happiness, and this manner of living my happiness is the expression of this feeling. By contrast, verbal gestures, appearing to be grounded on convention, may seem as if they are a fundamentally different type of gesture. In this model, a conventional sign is an arbitrary sign, and this is different from the way in which the natural sign is an immediate living of that which it expresses.

The verbal gesture may appear accidental, or incidental, to the meaning it carries.[15] We will find, however, that the verbal gesture is not entirely accidental, nor are the emotional gestures entirely "natural." We will further find that, in both cases, gestures are a mode of relation built on both the "natural" and "conventional." Conventions, or verbal gestures, are understood in the context of a particular cultural situation or affective milieu, and so may appear as a "recent mode of relation," they "presuppose an earlier

[14] "This difference is what we usually express by saying that the emotional gesture and gesticulation are 'natural signs,' whereas speech is a 'conventional sign'" (193).
[15] "...is not the link between the verbal sign and its signification purely accidental, as is attested to by the existence of several languages?" (192-3).

means of communication, and language must be put back into this communicative current" (193). According to Merleau-Ponty, verbal gestures were "extracted from" objects, not through some naive notion of "objective resemblance" but because "words, vowels, and phonemes are so many ways of singing the world," and they "literally express [the object's] emotional essence" (193).

There are many languages spoken around the world. Languages are different not because they are arbitrary conventions, but because there is no natural limit on the number of "ways for the human body to celebrate the world and to finally live it" (193). The fact that there are multiple verbal gestures that may reference what is (roughly) the same "thing" does not mean that any of those verbal gestures is accidental or arbitrary – we may instead consider them each to be the instantiation of a linguistic possibility that became available within certain linguistic environments.

To understand what we mean by saying that a verbal gesture exists for me as a possibility within my world, or field of activity, I will offer an analogy: consider agricultural practices around growing corn. The cultivation of corn became a possibility in environments in which corn can be grown, and in which the people there developed cultural practices around eating and growing corn. Corn may have been "naturally" available, or it may have been imported at some point or another, but in either case what is significant is that a people *took up* corn as a food, and they developed a set of practices and rhythms around its cultivation. By doing so, they made the cultivation of corn a possibility for themselves. In this sense, language is no different – a particular verbal gesture is taken up in some particular way by a linguistic community and, in so doing,

they made it a possibility for themselves within their world. For both corn cultivation, and for verbal gestures, each as a possibility is embedded within the world in which it was taken up and made into a possibility. The cultivation of corn is as conventional as any verbal gesture. Corn cultivation is tied to the land, to the local dietary practices, to the local customs. A verbal gesture is tied to the language in which it exists, to the local habits around its use, and to its sense in that particular local context. They are both a part of a particular world. For this reason, each language is irreducible to any other: "we can speak several languages, but one of them always remains the one in which we live" (193).

While we may think of emotional gestures as a "natural" sign, such as the expression of happiness through a smile, this too is false. Merleau-Ponty notes that "the gesticulations of anger or love are not the same for a Japanese person and a Western person" (145). It is not merely that the gesticulations are different, but the manner of *meeting up with* anger is different between these cultural milieus: it "is not merely the gesture that is contingent with regard to bodily organization, it is the very manner of meeting the situation and of living it" (194-5). While the bodily aspects of emotion and its expression are grounded in a certain physical reality, "the psycho-physical equipment leaves so many possibilities open" (195) for how conventions around emotion and their expression manifest and become grounded. Ultimately, "there is no human nature given once and for all" (195). Cultures differ, and within cultural environments, individuals differ, and the many gestures available for expression demonstrate this variability.

Between "natural" and "conventional" signs, we have found that no sign is purely natural or purely conventional: it "is no more natural and no less conventional to cry out in anger or to express love through the kiss than it is to call a table a 'table'" (195). The verbal gesture, then, is no different from any of the other gestures we have considered with regard to their naturalness or conventionality. The world in which a gesture is developed is expressed by the gesture.[16] Merleau-Ponty writes, "speech is a gesture, and its signification is a world" (190). Through articulating a verbal gesture we take up our world, and we invite others into our world.

1.2.5 "Catching" Sense

Several times in *The Phenomenology of Perception*, Merleau-Ponty uses the term "catch" to refer to grasping sense or understanding of movement and of language. I will take up this term in the arguments that follow as a meaningful way of understanding Merleau-Ponty. I have included the original French text with each example to demonstrate that the choice of the word "catch" is Merleau-Ponty's, and not the translator's.

Regarding the original French: the word "*attraper*" is the infinitive form of the French verb that translates most directly to "to catch" in English, (taking the form "*attrape*" in present tense third person, or "*attrapé*" in *passé composé*). The word

[16] "Thus, there are, strictly speaking, no conventional signs and no simple notation of a thought that is pure and clear for itself. There are only words into which the history of an entire language is compressed, and which accomplish communication without any guarantee in the midst of incredible linguistic hazards" (194).

"*happé*" translates most directly to "grabbed". "*Attraper*" is the French word used to describe "catching" in its most literal sense, for example, to catch a ball or to catch a rabbit.

My interest in Merleau-Ponty's usage of the verb "to catch" is to show that it is not merely an effective metaphor or analogy, but rather that "catching" is the mechanism by which we come to grab a hold of something. "Catching" holds for both physical movements and for gestures ("catching" a movement), and also verbal gestures, words, and linguistic sense ("catching" a sense). The fact that we "catch" both movements and words demonstrates that "catching" is the means by which our body schema first takes up something it may develop into a power or habit, be it motor, linguistic, or otherwise.

In the first example, "catch" is used to describe understanding and taking up a movement: "the body, as has often been said, **'catches'** (*kapiert*) and **'understands'** the movement. The acquisition of the habit is surely the grasping of a signification, but it is specifically the motor grasping of a motor signification" (144, emphasis mine).[17] In the second example, "catch" refers to how we take up the meaning of an analogy: "this is how the normal subject **'catches'** the essence of the analogy…" (130, emphasis mine).[18] In this next instance, he uses 'catch' to refer to an act of visual perception and to an act of motricity:

> The sensible configuration of an object or of a gesture, which the critique of the constancy hypothesis brought before our eyes, is not grasped in an ineffable coinciding, but rather 'understood' through the sort of appropriation we all experience when we say

[17] This passage appears in the original French text as follows: "C'est le corps, comme on l'a dit souvent, qui « attrape » (kapiert) et qui « comprend » le mouvement" (Merleau-Ponty, Maurice. *Phénoménologie de la perception*. Les Classiques des sciences sociales, [1945] 2015, 185.).
[18] "C'est ainsi qu'il « attrape » l'essentiel de l'analogie et l'on peut toujours se demander si un sujet ne reste pas capable de comprendre" (Merleau-Ponty [1945] 2015, 167).

> we have 'found' the rabbit in the foliage of the visual puzzle, or that we have '**caught on'** to a movement. (58, emphasis mine)[19]

In the next case, he uses the term to refer to using a new word:

> One day I **'caught on'** to the word 'sleet,' just as one imitates a gesture, that is, not by breaking it down and by establishing a correspondence between each part of the word that I hear and some movement of articulation and phonation, but rather by hearing it as a single modulation of the sonorous world and cause this sonorous entity appeared as 'something to be pronounced' in virtue of the overall correspondence that exists between my perceptual possibilities and my motor possibilities, which are elements of my indivisible and open existence. (425, emphasis mine)[20]

Lastly, he uses "caught" to refer to how a "speaking power" takes up language: "The word has never been inspected, analyzed, known, and constituted, but rather **caught** and taken up by a speaking power [*puissance parlante*]… as for the sense of the word, I learn it just as I learn the use of a tool – by seeing it employed in the context of a certain situation" (425, emphasis mine).[21]

His framing of language in this way allows us to understand the structure of the experience of language in the same way that we understand the structure of experience in general – as a body that instantiates itself within space and which orients itself toward its world, poised to catch what comes its way. By looking at language as equipment surrounding us, and by looking at the verbal gesture as something thrown to us in much

[19] "La configuration sensible d'un objet ou d'un geste, que la critique de l'hypothèse de constance fait paraître sous notre regard, ne se saisit pas dans une coïncidence ineffable, elle se « comprend » par une sorte d'appropriation dont nous avons tous l'expérience quand nous disons que nous avons « trouvé » le lapin dans le feuillage d'une devinette, ou que nous avons « attrapé » un mouvement" (Merleau-Ponty [1945] 2015, 90).
[20] "J'ai un jour « attrapé » le mot grésil comme on imite un geste..." (Merleau-Ponty [1945] 2015, 476).
[21] "Le mot n'a jamais été inspecté, analysé, connu, constitué, mais happé et assumé par une puissance parlante" (Merleau-Ponty [1945] 2015, 476).

the same way a ball is thrown to us, we can recognize how aspects of embodiment that may have first appeared to be relevant only to movement or motricity are also relevant to language.

We can now bring together several of the key concepts Merleau-Ponty has offered us: the body schema, habits, and expression. “Catching,” for Merleau-Ponty, refers to the first time our body schema unites with a signification, giving itself the opportunity to develop what it has caught into a power or a habit. This act of “catching” expands the capacities of the body schema – it acquires new tools for expression, new ways of navigating, new ways of aiming itself toward its objectives in the world. The capacity for expression is a set of habits that make use of gestures I have acquired, cultivated, and kept available for my use. “Catching” refers to any act of taking up signification, be it bodily movement, a sexual gesture, a verbal gesture, and so on. “Catching” is how my “I can” begins to incorporate new gestures, habits, and expressions into my body schema. “Catching” grows my “I can” so that I can do more. One may be more or less adept at catching itself – having a propensity to grab onto new senses easily, and to quickly incorporate verbal gestures into one’s lexicon; one may struggle to catch, and need to take many efforts to finally get a good grasp.

“Catching” sense in the linguistic context refers to the experience of the listener who is coming forward to meet sense expressed linguistically, and its correlate is the speaking subject, who throws the sense to the listener for them to catch. Now, we have the components of a conversation: a speaker who throws sense to a listener who catches

it. As conversations tend to be a back-and-forth, the speaker and listener roles are traded between interlocutors. We may frame a conversation like a game of catch.

But what happens when one person in the conversation is unfamiliar with the key concepts and terminology? Or if they do not trust themselves to speak well on the topic? What if one person feels they cannot successfully project their mental landscape through speech so as to invite their interlocutor into their world? What happens when a conversation is constrained by the inhibition of someone's intentionality?

Merleau-Ponty has provided us with an account of how the body succeeds in "catching," but he says little on how the ability to "catch" can be circumscribed or limited. To expand our understanding of "catching," I will turn to Young and her article "Throwing Like a Girl,"[22] in which she explicitly addresses obstacles faced by little girls and by women in catching and throwing. I will bring Young and Merleau-Ponty together to build a phenomenological account of developing new capacities for operating within language grounded on this idea of "catching," and how "catching" can be enabled or inhibited. The crux of my argument rests on the diversity and spectrum of activities between moving forward to meet and catch something coming *for* me, and remaining rooted in place (not mobilizing my body) when something is coming *at* me. The title of Young's article references how little girls throw balls, but she also discusses in detail how girls and women often fail to catch balls thrown to them in a manner distinct from

[22] Iris Marion Young, "Throwing like a Girl: A Phenomenology of Feminine Body Comportment Motility and Spatiality," Human Studies 3, no. 1 (December 1980): 137–56, https://doi.org/10.1007/bf02331805.

boys and men. I will now take up Young's insights on difficulties catching balls experienced by little girls to explore conditions in which someone may struggle to "catch" in the phenomenological sense outlined above more generally. Ultimately, I will apply this concept of "catching" sense to the situation of patients encountering consent information in consent forms and in consent conversations.

1.3 Iris Marion Young's "Throwing Like a Girl"

1.3.1 Brief Overview of "Throwing Like a Girl"

In her article "Throwing Like a Girl," Young takes up Merleau-Ponty and de Beauvoir to explain a peculiar phenomenon: the differing bodily comportment held by little girls and little boys when engaged in throwing balls. Young's analysis in "Throwing Like a Girl" is based on Merleau-Ponty's account of the lived body and de Beauvoir's account of being situated as a woman, which she opposes to the possibility of understanding the "essence" of woman.[23] Young's analysis is an active engagement with Merleau-Ponty's account of embodiment, though she focuses on particular ways in which the pre-reflective, "I can" experience of the body can instead be interfered with, resulting in an embodiment which is less empowered, and takes itself up as less capable, to engage with the world.

[23] "The account developed here combines the insights of the theory of the lived body as expressed by Merleau-Ponty and the theory of the situation of women as developed by de Beauvoir (1974)" (Young, 141).

Young finds that Merleau-Ponty's phenomenological analysis lends itself well to understanding "feminine bodily comportment." Consulting empirical studies, she observes that, while boys tended to use their whole bodies to throw a ball, girls tended to use only their arms, as if the rest of their body were not engaged in throwing. She relates this tendency to "throw like a girl" to other "feminine" tendencies in motility and spatiality. She argues that these phenomena are explained by women living their bodies as objects, rather than as whole beings toward the world.

As Young makes clear, heterosexual women within a heteronormative context experience an ambiguity in their bodies given the gendered structures of sexual relations: their experience of "I can" requires that they accept a certain degree of "I cannot," a passivity in relation to men. In essence, women tend to experience their body as a "thing" at the same time that they experience their "I" in the form of their "I can." While heterosexual men may also experience the objectification of their bodies, Young takes up de Beauvoir to show that there is a sexed and gendered significance to the "thingness" in question, and this presents a particular challenge to embodiment. De Beauvoir argues that the female sexed body, and its menstruation, pregnancy, and the established attitudes towards those things, ensure that women—or, specifically, cisgender women—experience their bodies as laden with an immanence which interferes with the transcendence available to (cisgendered) men. In this sense, a person sexed as female experiences "the requirements of the species at the expense of her own individuality" (Young, 139). Young suggests that this analysis holds a certain risk, namely that it implies that it is "women's anatomy and physiology *as such* which are at least in part

determinative of her unfree status" (139). It is not the material reality of her body, however, but her situated position which produces this ambiguity. Merleau-Ponty writes that the body "only becomes ambiguous in the experience we have of it, pre-eminently in sexual experience, and through the fact of sexuality" (Merleau-Ponty 2012, 171).

Young critiques the universality of uninhibited movement that Merleau-Ponty presents in the *Phenomenology of Perception.* She explains how gendered differences in experience and situation create different styles of occupying and navigating space, as well as different ways of occupying one's own body and navigating the world with it. In brief, she finds that little girls who "throw like girls" have not had their motility cultivated in the same ways in which little boys who are not affected by these inhibitions have had their motility cultivated. The little boys are not taught to experience their bodies as anything other than the power it is to them pre-reflectively, and they use it accordingly. Conversely, the little girls learn that space is not available to them and they should not assert themselves within space, and that their bodies are hindrances, obstacles, or vulnerabilities, and that their bodies can refuse to cooperate with their intentions, so their pre-reflective sense of themselves as "I can" is mitigated and compromised.

Young's aim is to "fill a gap" in "existential phenomenology and feminist theory" on the "basic modalities of feminine body comportment, manner of moving, and relation in space" (Young 139). Young situates her analysis in a particular epoch[24] and limits her

[24] "The account developed here claims only to describe the modalities of feminine bodily existence for women situated in contemporary advanced industrial, urban, and commercial society. Elements of the account developed here may or may not apply to the situation of women

scope to "the sorts of bodily activities which relate to the comportment or orientation of the body as a whole" (140). She is concerned with movements "in which the body aims at the accomplishment of a definite purpose or task" (140), distinguishing this type of movement from non-purposive movement (such as dance). In discussing the scope of her analysis, Young cites Merleau-Ponty, and her conviction, following his work, that "it is the ordinary purposive orientation of the body as a whole toward things and its environment which initially defines the relation of a subject to its world" (Young 140). Keeping in mind these limitations on scope, and the clarity of Young's aim, I will argue that we may extend Young's analysis beyond motricity and movement more broadly to the body schema in all its modes, and in particular, for my purposes, to language in the body schema. I intend to show that the concepts Young develops to account for "feminine" bodily comportment are, at their core, broadly relevant to describing un- or under-developed capacities of the body.

I will note an important feature of un- or under-developed capacities with the body: they are not static. A particular body may not have a particular capacity, but that is not to say that it could not develop this capacity further. It is an important feature of Young's work to outline not only the precise manner in which "feminine bodily comportment" includes a dearth of specific skills (of which throwing is an example), but also why it is that being situated as a woman means the possibility of cultivating those

in other societies and other epoch, but it is not the concern of this paper to determine to which, if any, other social circumstances this account applies" (139-40).

specific skills does not appear as accessible to women. Little girls "throw" like little girls, and they will, in general, grow up into women who throw like girls.

I am interested in the situation of patients confronting consent information and decision-making. Their situation may be more open than the situation of women as taken up by Young, in the sense that women in the milieu Young described were not likely to extend themselves into space, or to feel comfortable occupying space – the world did not invite them to do so. The world may be more or less inviting; the world's invitations may be more or less supportive of the body's navigation of space and its occupation of space. As a body sets objectives for itself, and maneuvers about in the world, the world will be more or less affirming, more or less facilitative, and more or less encouraging of the body. Young's analysis shows that little girls experienced the world differently from little boys – it is not that their bodies were any less capable of throwing; rather, little girls comported themselves in a more circumscribed way in response to a world that expected certain circumscriptions from them.

Conversely, patients may be more or less supported in cultivating their "I can" in relation to consent information and decision-making. I intend to show in part two that it is possible for patients to cultivate their capacity to take up complex medical information intentionally. But in many cases, patients do not cultivate this capacity. It is not my intent to argue that patients experience femininity in such cases, or that there is something feminizing about being sick. I am not arguing that illness is an example of the phenomenon Young has taken up in "Throwing Like a Girl," as if it could be considered

alongside throwing, catching, running, and so on. Rather, my intent is to show that two specific concepts Young uses to understand feminine bodily comportment are also useful for exploring more generally what it is like to live in a situation in which the world does not encourage me to cultivate certain bodily capacities. As my body and the world gear into each other, if my world shows me that I am to be limited in certain respects, my body takes up those limitations. When my situation calls me to hold myself back from certain movements, certain aims, certain ways of being-in-the-world, I take up these styles of being. My style of moving or being may be at odds, then, with how a situation may then call out for certain capacities or movements which have not been cultivated with me because the world encouraged me to avoid cultivating them. One must imagine how frustrated the little girls may have felt when they were told to throw balls. The misalignment between what the world asked of them was on full display – they simultaneously did what they were asked to do, and held themselves back from what they had been asked to do. This discordance is an important aspect of the situation of women as it is taken up by Young – their feminine bodily comportment is consistent with how they have geared into the world, and yet it is inconsistent with an open and unbroken directedness toward the world.

Young enables us to take up the questions: what is it like when I need to do something I cannot do, and that I do not trust myself to do well? To help answer this question as situated in the experience of the patient considering their consent, I will take up Young's concepts of *ambiguous transcendence* and *inhibited intentionality*. I will not

take up how she characterizes the situation of women in relation to her embodiment more generally, however.

We can distinguish between a skill I have not developed and for which the conditions that would enable its development do not exist, on the one hand, and a skill I have not developed and for which the conditions that would enable its development may be more or less favourable. It is well within the scope of Merleau-Ponty's *Phenomenology* to describe in detail what it is like when the body learns about a new possibility for itself, and what it is like to cultivate that possibility and to have that possibility cultivated into a real habit and power in the body. Through the help of Young, we can flesh out in more specificity what it is like when my body and my situation do not lend themselves to the development of a particular habit or power in the body.

My interest is in the period during which a body has learned about a possibility that exists for it, and how we may approach supporting the body in "catching onto" that possibility. Put another way: I want to describe what it is like to learn about a new practice and then to explore how to best enable habituation to that practice. While Merleau-Ponty discusses habit at length, Young's work will help us to elaborate in more detail the body which "cannot," that is, the body that has not developed its "I can" sufficiently to navigate a particular context, or whose development has been circumscribed in some way.

Being in the world is to be forced to reckon with one's situations and situatedness. Being in the world *is* this reckoning. Being in the world entails an openness to a field of

possibilities. What comes to populate this field is determined, in part, by our orientation and intentionality toward the world. Through our orientation and intentionality, we can open possibilities up for ourselves, or close them off from us. We find within "feminine embodiment" evidence that the sexed aspect of being in the world contributes meaningfully to how the intentionality of women limits what appears as available to them.

I will argue that the bodily inhibitions on movement, task-orientation, and capacity described by Young may also be applied to verbal and linguistic areas of experience. As Merleau-Ponty conceives of verbal gestures as one type of gesture among others, and of language as one mode of expressivity among others, I propose to apply Young's work on mobility to Merleau-Ponty's work on language, sense, and meaning. Briefly, I will argue that ease of expressivity and the horizon of possibilities made available through linguistic expression are similarly circumscribed by one's situation. Therefore, ease of expressivity and the horizon of possibilities made available through language are subject to better or worse cultivation, or to inhibiting influences, just as we find with feminine bodily existence in Young's analysis.

In general, we will find that the body habituates itself within its world: "it is the ordinary purposive orientation of the body as a whole toward things and its environment which initially defines the relation of a subject to its world." (Young 140) The mechanisms by which a body becomes habituated to certain physical practices (such as throwing or catching a ball) and the mechanisms by which a body becomes habituated to

certain linguistic practices (such as using or understanding certain terminology) are ultimately the same mechanism, that is, the capacity to grasp onto a new practice and to cultivate it into the body schema. This process occurs gradually, and it is contingent on existing within an environment in which the practice in question is illuminated as a possibility for that individual.

1.3.2 Ambiguous Transcendence and Inhibited Intentionality

Young outlines three modalities of feminine motility: ambiguous transcendence, inhibited intentionality, and discontinuous unity with its surroundings. I will focus on ambiguous transcendence and inhibited intentionality. All three of the "contradictory modalities of feminine bodily existence" share an origin: "for feminine existence the body frequently is both subject and object for itself at the same time and in reference to the same act" (Young 148). Experiencing the materiality of the body is not the same thing as reducing the body to an object. Following from Merleau-Ponty, objects exist *for* me; I can only conceive of my body as an object when I reflectively imagine it from the perspective of another, or when I take it up myself reflectively as an object of my consideration. But my capacity to take up anything at all through my body precedes any reflection that follows from that power. This is what Young means when she writes, "feminine bodily existence is frequently not a pure presence to the world (Fisher, 1964) because it is referred onto *itself* as well as onto possibilities in the world" (Young 148). My body is "referred onto itself" in the sense that the world directs my body to direct its attention toward itself.

Young argues that, because the feminine body is "laden with immanence," it experiences an "ambiguous transcendence" (145). Phenomenological analysis shows how, in ordinary experience, the body is characterized by transcendence, whereby it moves beyond itself "in an open and unbroken directedness upon the world in action" (145). This open and unbroken directedness refers to the way in which the body experiences itself as an "I can," capable of aiming at its objectives within the world. This body, however, exists in contrast with the feminine body described by Young, which "remains in immanence, or better is *overlaid* with immanence, even as it moves out toward the world" (145). The feminine body is burdened by its immanence, such that it does not experience an open and unbroken directedness upon the world – we might instead say it has a semi-closed, broken directedness upon the world. Rather than experiencing her body as the media through which she directs herself toward the world, the feminine body described by Young experiences her body directly as an object, which she must maneuver (with difficulty) within the world. What could be an unbroken directedness has instead been interrupted by self-conscious attention focused on one's own body.

In addition to experiencing our bodies as objects, Young argues that women also tend to hold their bodies back from being fully committed. She writes: "feminine bodily existence is an *inhibited intentionality*, which simultaneously reaches toward a projected end with an 'I can' and withholds its full bodily commitment to that end in a self-imposed 'I cannot'" (146). In inhibited intentionality there can be a distrust of the body's capacities, a concern about whether or not the body is fully able to execute the movement

it initiates. Or, there can be a distrust of the world and the beings within it, such that the world and others may not receive and respond to the "I can" in a way that supports and develops its "I can."

Inhibited intentionality results from a disruption to the dynamic relations between self and world. Intentionality is not found simply within the individual; rather, intentionality is in the relation of being and world. Insofar as the conditions of a situation situate women as restricted, and insofar as the other people within that situation affirm her as restricted, her experience of being toward the world adheres to this restriction. This is not a determinism: she may respond to this restriction in an infinite number of ways – simply submitting or rebelling being only two – but she cannot choose to escape being situated as such.

1.3.3 "Catching" Sense and "Throwing Like a Girl"

Having established how, for Merleau-Ponty, our bodies move to "catch" sense, and having given an overview of Young on ambiguous transcendence and inhibited intentionality as revealed by her study of little girls struggling to throw and catch balls, I will now advance a phenomenological account of "catching" sense that borrows from the notions of ambiguous transcendence and inhibited intentionality. My aim is to show why the concepts Young presents to account for feminine bodily comportment are also effective in describing and accounting for hesitations and difficulties navigating linguistic space or taking up linguistic "equipment."

"Catching" describes a skill belonging to the body schema. Or put another way, catching is the means by which the body schema grabs ahold of something, and this moment of grabbing is the first step in cultivating a particular habit – though habituation is not a guaranteed outcome, of course. Catching becomes a possibility when something enters into my field of awareness, that is, when I sense something near to me, and also when that something appears to me as something I am capable of catching. For example, if another person moves in a particular way using their body (say, waving their hand in a particular way), I am aware that this movement is also a possibility for my hand and my body. On the other hand, someone may move in a way that does not appear to be a possibility for me – if someone is double-jointed, I may be surprised that their body allows for flexibility in certain areas, for example; or if someone is a highly skilled athlete, they may move in ways that do not appear as possibilities for my particular body. Another person's movement may appear to me as a possibility for "someone" else but not for *me*, specifically. Young writes that a woman may project possibilities for "someone" but not for herself because she projects an "*I* cannot" (147). In these cases, I "catch" the sense of the movement in that I understand the movement – I understand its sense (for example, an angry gesture), and I understand it to be a possibility for a body (though perhaps not my own). "Catching" something does not mean I can take it up as equipment available to me to use freely, easily, or confidently; rather, "catching" something means that I have taken it up as a signification of the body.

We may therefore distinguish "catching" from habituation. When someone uses a word I vaguely recognize, with enough context or clues, I may feel reasonably confident I

have “caught” its meaning, but I may not have a firm enough grasp on it to use the word myself. I may recognize that the situation in which we are speaking has called out for the word, but this is not sufficient to enable me to be responsive to that call. “Throwing” is closer to speaking and aiming, and “catching” is closer to listening and taking up.

So, we have established that “catching” is the first part of apprehending a signification (be it a movement, a word, a gesture, and so on). We may note that, depending on what is calling out to be “caught” by me, and depending on my own disposition and situation, it may be more or less difficult for me to catch something. For example, if I am tired, sick, or upset, I may be less adept than I am normally at “catching” anything at all. Further, I may be better at catching some things than others. For example, I may be adept at catching onto linguistic sense but struggle enormously with movements oriented toward using physical tools. Or I may be excellent at catching onto how to use physical tools but struggle enormously to “catch” movements needed for dancing. My ability to successfully “catch” what comes my way depends, in part, on what is coming my way. Some things are harder to catch than others.

The little girls in the studies Young writes about did not only struggle to throw: they struggled to catch, too. It can be a difficult experience to have things flying at you and to experience yourself as unable to catch them. If we are not directing ourselves towards these things – that is, moving to meet them – we may instead be focused on protecting ourselves from them. There is a substantial difference between moving out to meet something flying through the air, as if I am trying to intercept it, and trying to protect myself from things flying through the air at me, as if I am under attack. When I

meet something to catch it I am aiming myself at it; when I try to protect myself from something I am aiming at myself, and specifically shielding myself. My attention is referred back onto my body as something vulnerable to be protected. Young draws this point clearly with the distinction between "toward" and "at": "women have a tendency to take up the motion of an object coming *toward* them as coming *at* them" (148). Unlike men, who tend to run forward to *meet* the object, women tend to remain rooted in place, waiting for the object coming *at* them to do so.

If things appear to me such that "catching" them is not illuminated as a possibility for me, I cannot begin the process of developing a power or cultivating a habit for those things. If I do not experience my power for catching as a possibility my recourse will be to protect myself against it rather than to take it up as a possibility signification or expression *for me*. Young's account outlines this situation in the context of motility, movement, and throwing and catching balls – let us consider this situation in the context of language. If I am in conversation with someone, and my interlocutor uses terminology I do not recognize, I may struggle to "catch" the sense of what they are saying. In other words, I may not take up those verbal gestures with my understanding. These unfamiliar terms are near me, but they remain opaque and resist me. Merleau-Ponty describes words available to me as being like objects in my environment – present as possibilities for me. I may approach words I do not recognize to be like objects I cannot name, or tools whose purpose I do not know and which I do not know how to wield. If there is no one present who seems to have a capacity to put these tools to use and whom I could ask to help me to do the same, then these unfamiliar words will persist in my environment – in that

sense, they are given to me – but they will continue to resist me in that I do not know how to take them up as possibilities for myself. If I do not aim at a gesture and take it up with my understanding – if, instead, I feel incapable of approaching it – then I do not aim toward it. And I can only hope its unknown significance does not have any negative implications for me.

Aiming toward something is how the "I can" orients itself purposively in the world. Young writes:

> "the tendency for the feminine body to remain partly immobile in the performance of a task which requires the movement of the whole body illustrates this characteristic of feminine bodily existence as rooted *in place*. Likewise does the tendency for women to wait for an object to come within our immediate bodily field rather than move out toward it" (151).

Immobility is the comportment of a body which does not aim toward something in the world; such a body is not the living "I can" but the circumscribed "I cannot."

It may appear at first that taking up a gesture by understanding it is only an "aiming toward" in a metaphorical sense. We may think, at first, that physically aiming toward a moving object, such as a ball, in order to catch it is a useful analogy for the mental operations that occur when we hear language and process its meaning. However, for Merleau-Ponty, it is not merely analogical to say that in "catching" the sense of a gesture we aim toward it. We may refer to what Merleau-Ponty has written about gestures, and how verbal gestures are no less gestural than physical or emotive gestures. While *taking up* a gesture in understanding may not require me to physically move my body toward the speaker, I am taking up the mental landscape projected by the speaker in reality.

If I am in a conversation that includes many expressions which elude me, and if that conversation is also emotionally charged, I may experience the terminology I do not recognize (which I cannot "catch") as threatening to me. I may recognize that its meaning is potentially significant for me, and so my inability to "catch" onto its meaning could frustrate, anger, or frighten me. Take, for example, receiving a medical diagnosis: if I do not recognize or understand the words my doctor is using, I will search desperately for sense and clarity in whatever part of her speech I can "catch" onto: her tone, her body language, her emotional gestures, the parts of phrases I do recognize, and so on. I will listen intently to *how* she speaks the words I do not recognize. I will be bracing for impact from these opaque terms that resist me, but which appear as coming *at* me.

Chapter 2 Describing Patient Experiences

In chapter two, I aim to sketch out a preliminary phenomenology of the patient experience when encountering a consent form. To help supplement this phenomenological description, I will also reference contemporary health science ethics research that aims at studying patient experiences with consent forms. Once the patient situation has been well-described, I intend: first, to show how Young's concepts of ambiguous transcendence and inhibited intentionality play out in the patient's experience; second, to show how our idea of "catching" sense plays out in the relations between the patient, their physician, and the consent form; and finally, to point to the idea of freedom in research ethics, the patient valuation of their relationship with the physician, and Merleau-Ponty's concepts of freedom and intersubjectivity as avenues for advancing further phenomenological work on patient experiences with health research consent.

Regarding my method: the research studies referenced in this section are health research studies which do not take up any phenomenological method (they are mixed-methods studies using typical social science techniques; i.e., surveys and focus groups). These studies are scientific, "objective," and empirical, and they aim at measuring and describing the objective, Cartesian body as it is understood by the empiricist approach that Merleau-Ponty critiques throughout the *Phenomenology* – that is, the objective body subject to cause and effect. I included these studies as they provide insight into how physicians approach understanding patient experience – physicians take up these questions through specific research methodologies. Such methodologies appear, for the

physicians, as ready-to-hand possibilities for taking up questions about patient perception and experience. I will be looking at these studies through a phenomenological lens; that is, I will not be assessing the scientific merit of their methodologies, evaluating the validity of their conclusions, verifying their p-value calculations, or anything of the sort; rather, I am interested in these studies as vivid examples of real research studies, for which real patients gave their consent, and in which patients did communicate about the nature of their own experiences navigating consent.

2.1 Sketching a Preliminary Description of Patient Consent

Think of a time in your life when you became sick or injured. Typically, the experience begins with noticing that something is wrong in your body. Depending on what appears to be wrong, how persistent it is, the extent to which it interferes with normal life, your access to health care, if it worsens, and so on, you may choose to go to a doctor (or be brought to one by someone else). Receiving bad news from a health care professional is an unsettling experience. In these moments, we give up some of our expertise and authority over our own body and experiences to an expert. We give ourselves over to the expert so that they can interpret our body's signs and signals for us. We may reject the expert's findings and seek a second opinion, or we may refuse diagnosis and treatment altogether – but in general, many people submit to the authority of the medical community and give themselves over to the treatment prescribed to them. Experiences with illness and treatment are often disconcerting on their own, but the

situation can become much more harrowing when treatment fails, or if you are not a candidate for treatment, or if there are no known, approved treatments to begin with. In such instances, you might be invited to participate in interventional health research.

First, some definitions: it is important to define *health research* in the context of health care more broadly. Many Canadians are invited to participate in health research. Health research is, generally, considered optional, in contrast with "*standard of care*" treatment, which is, generally, considered recommended. Health research and "standard of care" treatment are fundamentally entwined. A standard of care treatment is established as such on the basis of sufficient research demonstrating its efficacy. Or in other words, the medical community reaches a consensus on the basis of compelling, data-driven, research-derived evidence. Standard of care treatments are, in this sense, the ideal eventual outcome of health research.

"Health research" as a category includes any research study which pertains to health. Many health research studies are *non-interventional*, that is, they do not intervene in patient care (for example, completing an optional survey about your experiences in the hospital emergency room). By contrast, *interventional* health research does (or at least, has the potential to) change the treatment protocol for a patient by intervening in the "normal" course of care. For example, consider a double-blinded study aimed at evaluating a new pharmaceutical drug: some participants receive the new drug, and the others receive the "standard of care" drug, and the outcomes for the patients within both groups are compared.

In cases where there is a very effective "*standard of care*," interventional health research may be taken up by patients and physicians as truly optional; in other cases, where there is no "standard of care," or the "standard of care" is not considered as likely to be effective, or the "standard of care" is not an option (because the patient has a comorbid condition that prohibits it, or because it has already been tried and it did not work, or for some other reason), an interventional research option (particularly if it is in a later phase of study) may be less of an "option" and more of a strong recommendation. In such a case, research is not so much optional as it is only, or the better, option. Consider, for example, children's oncology: research tends to progress so rapidly that many treatments are never established as "standard of care" as the process to do so takes a certain number of years. Accordingly, the "standard of care" treatment *is* a clinical (research) trial. All of this is to say, the relationship between research and standard of care treatment can be quite complex, and it can vary depending on the disease profile, the therapeutic modality, the study population, and so on. In general, however, research is (or should be) optional and "standard of care" is the "normal" course of treatment.

Continuing with needed definitions, *consent form* will refer to the formal document that describes a health research study and which solicits the signature of the participant signifying their consent to participate; the consent form typically includes the details of the study protocol, its potential risks, its potential benefits, the obligations participants agree to undertake. The required components of the consent form are stipulated by relevant policies, and each consent form is subject to review and approval

by the appropriate authority (a Research Ethics Board, or REB, in Canada, and an Institutional Review Board, or IRB, in the US).

The term *patient* has a complex role in this work, as I will use it to refer to an ill individual who has been invited to participate in health research; Merleau-Ponty uses the term to refer to individuals (often Schneider), whose illnesses Merleau-Ponty uses to elucidate one or more aspects of perception or experience. The meaning of "patient" will therefore depend on context, and if clarity is needed I will endeavor to provide it.

Physician will be used to refer to physicians who are also clinical health researchers. Not all physicians do research, of course – my usage in this way is only a short-hand.

Finally, *consent conversation* refers to a specific activity required by health research regulations: it is the formal process wherein a consent form is explained, the patient is given the opportunity to ask questions, and often, the consent form itself is signed (though this could occur at a later date, instead).

As research is optional, the invitation to participate in health research is just that – an invitation. From a research ethics perspective, the fact that it is an invitation is crucial. The invitation means your doctor is not instructing you or advising on what to do. You must decide for yourself if you want to accept this invitation.

There are many situations where someone may be invited to participate in research, and the majority are quite benign – healthy people are often invited to fill out a survey, or give an interview, or otherwise contribute their data to a study. This essay is

concerned, however, with the types of research studies offered to individuals who are sick and for whom there is no standard treatment available.

When sick, we are reminded that our body is a material object vulnerable to injury and disease – we experience our bodies as *laden with immanence*, to use Young's expression. My capacities to run, to jump, to sing, to wash dishes, to make someone laugh, to engage in my life and with my world, may be undermined or circumscribed. My awareness is drawn to the finite, material aspects of my being: for example, to my tendons if I have limb pain and limited mobility; or to a particular organ if it is not functioning correctly, resulting in pain and difficulty breathing, or digesting food, and so on. At the same time, my awareness is also drawn to the meaningful, personal, and existential aspects of my being which, I am brought to realize, depend on the material functionality of those parts of my body. For example, an infected throat may prevent me from singing while I putter around my kitchen or an injured calf may prevent me from taking a daily walk. My illness refers my attention back on to my body. My body is no longer the media through which I enact my aims in the world but instead the focus of my attention.

Sitting in a physician's office with a consent form is not often an easy experience. While the situation may be deeply charged, the consent form appears cold, detached, and non-responsive, showing little to no recognition of the human reality unfolding around it and to which it is responding. The consent form is its own gestalt – the document is laid out as text-figures against a white-page background. Before we encounter the details of a text we encounter it as an object.

Consider the experience of reviewing a document – the world beyond the periphery of the form blurs as you focus your vision on the pages. We see blocks of text in standard 12-point font, single spaced, justify-aligned paragraphs on the 8.5- by 11-inch pages. The form has the air of *officiality*: it is formal, and it designates that a regulated, bureaucratic process is unfolding inside an institutional setting. It resembles a contract, and it may remind us of experiences like signing a mortgage, or some other lengthy, complex, and important legal document. Our mind leaps to the bolded section headings, with titles such as "**RISKS**" and "**PRIVACY**." Regardless of whatever text is written underneath these section headings, we see the section headings first. The content within the "risks" section may spell out that "there are no major risks associated with this study," but the section heading "**RISKS**" creates an impression otherwise – it may cause a sense of "risk" to appear for me. We experience the form before we experience its content. Our experience of the form will influence our understanding of its content.

Consent forms are often ten to forty pages long. For many people, such a document appears as walls of text that become opaque and resist us. These text-walls are populated with foreign (medical) words, with unknown pronunciations, which can act as blockades barring our entry. The reader has no clear path inward, no clear means of *catching on* to the text. Its formality, the institutions it invokes, the "legal-ese," the lengthy and Latin-derived medical terms all conspire together to overwhelm the patient. So she stays outside it, but she internalizes the existential sense of the form perfectly: "you do not have the power to reckon with this."

Her physician asks, “do you have any questions?” How might she respond? She may say “no,” staying rooted in place. She does not trust herself (at least not yet) to aim at these foreign words as tools she seeks to master. Or she may say, “yes, I do” and try out some of the words and expressions she is meeting for the first time. She may show her physician how she is struggling to “catch” some of the words.

For the patient reading the form, her “I can” may become an “I cannot.” Her recourse forward is through her physician. Her physician has the power to reckon with this text-object that appears for the patient as hostile and daunting. To make sense of this text the patient will need the support of, and collaboration with, of a speaking subject fluent in the language. She needs someone who has *caught* the sense of the text and who can teach her to catch it, too. Like the young girls Young writes about, the patient’s initial intentionality toward learning to catch the sense of the consent form text is *inhibited*. But with a capable and supportive interlocutor, she can begin to “catch” the relevant senses and ultimately become capable of throwing and catching sense back and forth with someone else. Or put another way: she can become a speaking subject on the topic. As a speaking subject, she can orient herself toward her changed world and aim at her objectives within it.

2.2 Current Research on Health Research Consent

Physicians appear very aware that consent forms are not very effective at fulfilling their purpose of informing patients about important information. For example, one researcher writes, having “documentation of signed consent forms is no guarantee

that patients actually understand what they have signed, or that the consents that are obtained are in any other respect meaningful."[25] There is a clear awareness on the part of the physician that consent is important, and also that consent forms may not be an adequate mechanism to support consent. Rather than being a significant tool for the physician and for the patient, the consent form becomes "paperwork."[26]

We have the sense that filling out forms is a bureaucratic exercise – it is a perfunctory practice, often understood to be a process that satisfies lawyers and insurance agents by limiting liability. Forms and paperwork give an air of banality and rigid order to our experience navigating institutions and their processes. Consent, however, is about meaningful communication and decision-making.

A signed consent form is evidence that *something* happened that was aimed at communication or decision-making, but it is not evidence that *successful* communication or *intentional* decision-making took place. As one researcher notes, "a completed consent form implies only that the physician has made some effort to communicate with the patient, but its existence does not guarantee fulfillment of ethical and legal responsibilities" (Sulmasy 7). That an effort to communicate is no guarantee of meaningful communication is well understood by this research group.

Many researchers have negative views of consent processes and believe that the majority of patients do not understand the consent information therein. "We believe that a

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[25] Daniel P. Sulmasy et al., "Patients' Perceptions of the Quality of Informed Consent for Common Medical Procedures," *The Journal of Clinical Ethics* 5, no. 3 (September 1, 1994): 189–94, https://doi.org/10.1086/jce199405302, 5.

[26] "In a busy urban university medical center, informed consent may become synonymous with filling out forms" (Sulmasy 5).

significant proportion of consent-givers do not have a good understanding of what they have been told" (7). This negative perception is at odds with how informed consent is framed within research ethics, however: "the doctrine of informed consent constitutes the foundation of ethical clinical research."[27] So, on the one hand, informed consent is foundational to ethical research; and on the other hand, we have good reason to be skeptical that informed consent, as it is currently solicited and obtained, is actually happening. We may conclude, then, that it is possible we are failing to uphold foundational ethical practices within clinical research.

Throughout the research canon, there is awareness that, beyond the consent form as an object, there is (or ought to be) a meaningful encounter between the patient and the physician. According to some models, the consent form is a supplement to a much more significant consent discussion. For example:

> "we are aware that use of any form is generally considered but one part of a larger informed consent process. Many of the consent forms we examined included statements that either encouraged prospective participants to ask questions or asked them to sign a statement indicating that all questions had been answered" (Christopher 231).

Reference to a "consent discussion" is often present inside the consent form itself, and this conversation may be taken up more or less intentionally by the people involved. In some cases, the consent conversation may be robust, taken seriously, and well-supported by a conscientious and compassionate physician; in other cases, the consent conversation may be perfunctory, an "any questions?" asked hurriedly. The systems in place that

[27] Paul P. Christopher et al., "Consent Form Readability and Educational Levels of Potential Participants in Mental Health Research," *Psychiatric Services* 58, no. 2 (February 2007): 227–32, https://doi.org/10.1176/ps.2007.58.2.227, 227.

regulate consent (i.e., health research ethics review boards, informed consent form templates, and ethics review and approvals processes) are well able to assess and regulate consent forms, and not well able to assess or regulate conversations. Perhaps for this reason, there is strong emphasis on standards and requirements for consent forms and comparatively little on consent conversations.

Some clinicians and health researchers show an appreciation for the role of the speaking subject in the context of health research, and what may be understood as the distinction Merleau-Ponty draws between spoken and speaking speech. Consider what Sulmasy et. al. write on how the patient expresses themselves:

> "a simple technique that clinicians might use to validate a consent-giver's understanding of the nature, risks, and benefits of the procedure is to ask the consent-giver to repeat back, in his or her own words, what has been said. The emphasis ought to be on substance rather than form in consent discussions" (7-8).

The emphasis placed on speaking "in his or her own words" here shows that recalling the exact language of the consent form is meaningless if the aim is to confirm understanding; what is important is the patient's capacity to express what they understood *differently* than how the information is expressed in the consent form. The patient must reformulate the ideas anew, or contextualize them, or otherwise *find a way to express the sense*. The patient's capacity to take up more creative, generative speech (rather than to repeat speech that has already been established) shows that the patient has "caught" the terms enough to throw them around.

It is unfortunate that consent forms tend to be poor instruments for informing patients, in part because it is their job to do so, but also because patients report that they enjoy learning and understanding information relevant to their medical situation. Having

surveyed patients about the positive and negative aspects of their participation in health research, one study found that "many participants also enjoyed learning about health and disease, and some stated that this new knowledge improved their ability to care for themselves."[28] In order for consent to be "valid," physicians, using consent forms, are supposed to ensure that patients reach a minimal threshold of understanding so as to justify putting them into a decision-making position in relation to research participation; but beyond this minimum requirement, patients actually like learning. Patients like being able to catch the important terms and significations that relate to their situation, and to be able to throw them around and put them to use. Patients tend to prefer to be equipped with the right linguistic tools, and they tend to prefer feeling confident in their ability to take them up and do something with them.

Informing patients about the details of a study should ensure they have important information that may impact their consent decision. Patients are notoriously poor, however, at understanding risks in relation to studies. In some cases, they will perceive a high level of risk when it is in fact low, and in other cases, they will presume that any risks have been appropriately mitigated and managed by the institutions involved, missing entirely that the mechanism by which the institution has mitigated and managed the risk is precisely by informing patients about them and empowering patients to make informed decisions about undertaking those risks. Kost et. al. found that some participants held the understanding that they did not need to pay attention to the risks

[28] Rhonda G. Kost et al., "Assessing Research Participants' Perceptions of Their Clinical Research Experiences," *Clinical and Translational Science* 4, no. 6 (November 7, 2011): 403–13, https://doi.org/10.1111/j.1752-8062.2011.00349.x, 408.

outlined in the consent form because the institution would not allow anything genuinely dangerous to occur, "because they trusted the institution to protect their safety" (407). That this assumption led them to bypass the institution's mechanism for doing just that was not, seemingly, apparent to them. Notably, "some investigators expressed uncertainty about whether the risks involved in some studies were worth the benefit" (409). These physicians were of the view that patients should not assume that study risks are benign, as some studies involved risks substantial enough that the physicians questioned whether the potential benefits were "worth" the risk. There is evidently a large disconnect between the perspectives of the patients who believed all study risks must be benign and the physicians who believed some studies were potentially too dangerous to conduct.

Physicians perceive a problem with how consent processes are managed and conducted. The problem was raised by "nurses and ethicists," who "expressed concern that risks associated with participation may be poorly understood by participants, and that without a clear understanding of the risks, participants are not able to provide truly informed consent" (409). The validity of informed consent is contingent on whether or not the patient has understood what has been disclosed sufficiently,[29] and research on the topic suggests patients frequently do not have such a sufficient understanding.

There is one factor that appears consistently to be the most significant variable in predicting how patients feel about their experience participating in research: the nature of their relationship with their physician (or team of physicians). "Overwhelmingly, the

[29] "The validity of the consent obtained depends in part on whether participants understand what is being disclosed" (Christopher 227).

factor most frequently identified as contributing to a positive experience was developing a close relationship with the research team" (Kost 408). The significance of this relationship cannot be overstated. Because patients are not really making sense of the contents of the consent form, they are basing their decision to participate on how they feel about the physician(s) involved.

Physicians are well aware that their relationships with their patients play a significant role in patient consent:

> Investigators and nurses expressed concern about whether participant consent is free from undue pressure. Some professionals voiced concerns that participants may agree to take part in clinical studies partly because their trusted physicians suggested the study. Participants did, in fact, stress the important role of interaction with the research team or with their own doctors in recruitment. (Kost 409)

It seems, then, that some physicians believe their personal relationships with their patients are a risk to informed consent due to the possibility of undue influence. The idea is that participants will do what they believe the physician wants them to do, and will give consent regardless of what they understand about the study or its risks. As participants did cite their relationships as important with regard to their recruitment into the study, the concern physicians have with regard to the significance of their relationships with patients is not misplaced. I would suggest, however, that the solution is not to diminish these relationships or to avoid them. Rather, physicians would do better to focus on how to engage in a relationship with the patient that cultivates the patient's capacity to take up, understand, and orient themselves to their situation as an "I can".

If the patient is sufficiently secure in the relationship such that she does not feel the relationship could be jeopardized by making a choice "against" what she perceives to

be the physician's preference, the risk of undue influence has been mitigated. As the aim is to cultivate the patient's capacity to make decisions, the relationship between physician and patient ought to be navigated toward the cultivation of the patient's autonomy. To choose instead to diminish the relationship would be diminish something of great value to patients, and this is directly counter to the interests of the patients who identify these relationships as being important to them.

The patient must make choices; the issue is how to cultivate her capacity to ably use the tools she needs to use in order to make choices. It is not possible to bracket or deny the existence of the relationships between patients and physicians. It is possible for physicians to approach these relationships through the lens of cultivating their patients into speaking subjects capable of expressing their questions and their intentions, and therefore capable of aiming toward their world.

As a relationship between the patient and physician is inevitable, the question for physicians is, I would argue, how to cultivate an ethical relationship with the patient that functions as a secure foundation for the patient to develop their own powers to navigate complex consent information. What can physicians do to help patients "catch" the sense they need to catch? To help a patient experiencing ambiguous transcendence and inhibited intentionality to move from "I cannot" into "I can"? Physicians do not need to make experts out of patients, but they may aim at supporting the patient's development into a capable speaking subject on the topics most relevant to their diagnosis, treatment, and research participation.

2.3 Applying Young and Merleau-Ponty to Patient Experience

Now that we have a preliminary sketching of a phenomenological account of the patient experience encountering a consent form, I will apply the concepts and phenomenological approaches of Merleau-Ponty and Young to analyze our phenomenological account of the patient experience with the consent form. I will outline how ambiguous transcendence, inhibited intentionality, and "catching" sense are present in the account above. Once this analysis is complete, I will point us toward further avenues for advancing this work through Merleau-Ponty, and in particular, how both language and the significance of the relationship between the physician and patient point us toward freedom and intersubjectivity.

The patient experience is an instance of ambiguous transcendence as it is laid out by Young, I argue, because the content of the consent form and discussion refer the patient back onto their body. The subject of discussion is their body and some abnormality, malfunction, or disruption in its normal way of being. The patient's illness or medical condition calls their self-conscious attention to their body, and the consent form and discussion continue to center and thematize the patient's body. This issue is particularly pronounced in situations where the medical issue itself interferes with the patient's cognition, linguistic expression, or capacity for decision-making. Consider this study on mental illness patients and consent:

> Even by the most conservative estimate (...), approximately 35% [of mental illness patients] lacked the educational level required to read the average informed consent form. Considering that persons with mental illness tend to read three to five grade levels below their maximum level of education, the discrepancy we found between readability of consent forms and the reading ability of potential study participants may actually be underestimated. This discrepancy calls into question the utility of informed consent forms

> in conveying to participants the information that they need to make informed judgments about whether to enter a study. (Christopher 230)

Mental illness patients are likely to face greater difficulties "catching" the sense of the consent form precisely due to the nature of their symptoms, and the ways in which those symptoms interfere with their lives. Those same symptoms, and the consequences of those symptoms, are what researchers are keen to study. In other words: *what* they want to study resists being studied, or at least, being studied ethically. It seems inevitable, then, that this study concludes: "the precise means to ensure adequate informed consent procedures for those with mental illness remain elusive" (231).

If I experience my body as a burden, particularly if I experience my cognitive capacities as being burdened, I do not experience an "open and unbroken directedness" toward the consent information I receive either verbally or in written form. In this sense, the patient experiences an ambiguous transcendence as it is described by Young.

> At the root of those modalities… is the fact that the woman lives her body as *object* as well as subject. The source of this is that patriarchal society defines woman as object, as a mere body, and that in sexist society women are in fact frequently regarded by others as objects and mere bodies. An essential part of the situation of being a woman is that of living the ever present possibility that one will be gazed upon as a mere body, as shape and flesh that presents itself as the potential object of another subject's intentions and manipulations, rather than as a living manifestation of action and intention. (Young 154)

The patient's body is taken up as *object*, it is gazed upon and manipulated according to the intentions of the physician. However, as the physician directs herself toward the body and acts upon it, she does so because she aims at the subjectivity of the patient, and specifically at the restoration of the body so as to relieve the burden of its immanence. The ideal outcome of medical treatment is for the body to be transcendent in the sense described by Merleau-Ponty – not as an escape or denial of the materiality of the body,

but as an "open and unbroken directedness" onto the world. The patient's illness has already disrupted the "open and unbroken directedness" the body has toward the world. The medical intervention deepens this disruption even further: in addition to struggling with whatever symptoms and bodily experiences related to their illness, the patient must also now contend with discussing it, medical tests that measure it, a course of treatment that addresses it, and so on. Addressing their illness requires the patient's attention to be referred even further onto their body.

There is an important distinction between the experience of women and patients with regard to ambiguous transcendence – for the patients, the increased attention on their bodies is in service of the goal of returning the patient back to their "open and unbroken" directedness toward the world. That is, the medical intervention should (one hopes) cure, or at least improve, the patient's condition. Women's attention being referred back onto their bodies does not ultimately contribute to their liberation (though in some ways it functions to minimize potential harms).

Like the girls in the study cited by Young, the patient also experiences inhibited intentionality. She does not throw herself completely toward the consent form, confident she can take it up and understand it. Instead, she approaches it trepidatiously, lacking confidence in her ability to make sense of it. The patient has not developed habits around the relevant verbal gestures: they feel foreign and she feels unpracticed trying to wield them. She struggles to "catch" the sense being communicated to her, and while she may have questions, those questions remain indeterminate so long as she cannot bring them into expression through language. So she remains rooted in place, in a state of uncertainty

about her situation. Due to her inhibited intentionality, she holds herself back from fully directing herself toward her aims, such as developing her grasp on her situation, or confidently making a decision about her participation in health research that aims her in the direction she wants to go.

Young carefully delimits her analysis and does not step beyond the ground she has established, though, in her conclusion, she points toward further potential avenues for advancing her work. She writes, "I have an intuition that the general lack of confidence that we frequently have about our cognitive or leadership abilities, is traceable in part to an original doubt in our body's capacity" (155). My intent is not to prove definitively that Young's concepts of ambiguous transcendence or inhibited intentionality are manifested in the patient experience precisely and exactly; nor am I looking to establish that her concepts must be extended beyond movement into language and expression. I am not suggesting that patients are feminine, or that being taken up as pathologized by systems of medicine is a 'feminizing' experience. Rather, my intent is simply to show that there are meaningful resonances between the concepts she uses to describe feminine bodily comportment and between the patient experience of encountering consent information because both cases refer to a body not adequately equipped to reckon with its situation.

On Young's account, girls are situated such that they tend not to cultivate their bodies toward enacting their aims physically unselfconsciously. This lack of cultivation is attributed to sexist society. In the case of the patient, laypeople are, by definition, not trained to be medical professionals, and so will naturally lack the powers for expression with medical terminology that medical professionals have deliberately had cultivated in

them. Moreover, the majority of laypeople will lack confidence in their ability to navigate such linguistic terrain with any ease or openness. As laypeople, we are too concerned with our inability to pronounce the words, or to use them correctly, to focus properly on the sense we are trying to express. We need to gain some confidence "catching" and "throwing" sense with an interlocutor so as to move beyond pronunciation and syntax and invest ourselves fully in what we are expressing. Until we do so, we split our attention between what we are expressing and how we are expressing it. Like the little girls who split their attention between the ball they aim toward and the body with which they aim toward it, laypeople split their attention between the signification they aim toward and their struggle to pronounce and syntactically connect the words with which they aim toward it. Both the little girls and the laypeople are unable to invest themselves fully in their aims while their attention is split in this way.

I recognize that there is a disanalogy here, as the situation with little girls results from the injustice of a sexist society, and the situation with laypeople and medical jargon is not an issue of justice. My intent is to show a specific similarity between the little girls and the laypeople with regard to splitting attention between an aim and the means of achieving the aim. In both cases, the split attention derives from having undertaken activities without a sincere belief in the likelihood of success, and accordingly results in an awkwardness and self-consciousness that undermines them.

While the patient is in this state of inhibited intentionality in how she takes up her understanding of her situation, and how she orients herself to her decision-making about her situation, the consent form and consent conversation she has with her physician may

be more or less effective at supporting her transition out of inhibited intentionality and into her "I can". Or in other words: if her physician understands her role to be teaching the patient to "catch" sense, the consent form could be designed more intentionally with this aim in mind, and the consent conversation can aim more directly at cultivating the patient's capacity for learning how to "play catch" with the sense of the discussion. Many physicians do this instinctively already, of course. They appreciate that the patient experiences hesitation, limitation, and distrust in themselves in navigating the medical linguistic field in which they now find themselves. These physicians often aim themselves at helping the patient to become a speaking subject on the topic of their illness.

In the research context specifically, however, the physician may hesitate to take up this role as directly or as effectively as they may with a "standard of care" treatment. Avoiding influence over the patient decision, and the need to make it apparent to the patient that the decision is entirely up to them, shifts the locus of authority from the physician, who typically prescribes a course of treatment, to the patient, who typically follows instructions. With an interventional research study, the physician is (at least in principle) barred from prescribing participation in a study, and the patient must choose the course of action independently. The normal roles have been flipped. Typically, the physician gives recommendations the patient is likely to follow. In research, however, the physician is supposed to avoid undue influence over the patient decision. Have both the patient and physician been supported in taking up these changed roles? The typical patient still tends to look to the physician for her guidance, and the physician may

struggle to take up her role as caregiver without also adopting the authority with which she normally takes up this role.

The research context circumscribes the physician's propensity to instruct the patient on what to do, and it asks the patient to weigh complex medical information they have no training for interpreting. This role reversal illuminates of this situation illuminates how laypeople tend to approach their health situations: without the confidence of a speaking subject capable of throwing and catching sense. The issue is not that laypeople are confident and capable speaking subjects on all health issues with the exception of health research participation; rather, the issue is that laypeople tend not to be confident and capable speaking subjects on health issues in general. The tendency to struggle with "throwing" and "catching" sense about health information is not specific to the research context, though it is illuminated by the research context. Unlike the normal "standard of care" situation in which, at least in theory, the physician instructs, and the patient does their best to follow, the research context asks the patient to own their decision-making. By requiring that the patient give their informed consent, the research context makes the patient responsible for navigating their own situation and orienting themselves toward their possibilities within it. Unfortunately, many patients do not trust themselves to take up this role effectively. Such patients may benefit from being deliberately cultivated into speaking subjects on the topics of their illnesses and treatments, and from consent processes designed with these considerations in mind.

The research consent context demands that patients take up an authoritative role in relation to their own situation, and so it highlights the challenges patients face with

doing so. Even outside the research context, however, laypeople tend to benefit from being cultivated into speaking subjects on the topics relevant to their health and wellness. Laypeople and health care systems would benefit in general from promoting the cultivation of laypeople into speaking subjects capable of taking up their health situations and aiming themselves intentionally toward their possibilities with regard to their health.

A phenomenological approach to language in the context of health research consent is needed so that patients and physicians can understand and take up the practice of "throwing" and "catching" sense such that the patient is cultivated into a capable speaking subject. The benefits of this approach are not limited to health research consent, however. A phenomenological approach to cultivating practices around "throwing" and "catching" sense may benefit a layperson in any context in which she takes up her medical situation, as such practices enable her confident navigation of her situation. To cultivate my capacities as a speaking subject is to grow my powers to reckon with my situation and to enact my aims within my world.

Conclusion "Catching" Sense, Intersubjectivity, and Freedom

To conclude, I will provide a summary of my analysis of the phenomenology of language and the speaking subject in the context of health research consent, followed by a brief discussion of two philosophical themes that have emerged from my analysis: intersubjectivity and freedom. While it is beyond the scope of my analysis here to address freedom or intersubjectivity in detail, I will point toward avenues for advancing my analysis with reference to the *Phenomenology*.

The speaking subject is speaking *with* someone. For Merleau-Ponty, language begins with the speaking subject and the speaking subject is always already in relation with an interlocutor. Language is social: it presupposes relation between beings who are expressing themselves to each other with the expectation of being more or less understood. Contemporary research ethics practices, in their emphasis on the consent form, partake in the empiricist and intellectualist approaches to language which miss altogether the significance of the speaking subject. The consent form is voiceless, it does not emanate from a speaking subject, it does not invite the patient into conversation with another person. The consent form cannot participate in a dialogue.

A consent form is not likely to relieve the tension a patient experiences while making a difficult choice on the basis of challenging medical information she has received, and it may worsen that tension or contribute to the difficulty she experiences. If we understand the physician's role in this moment to be to support the patient's development into a speaking subject on the topic of her illness and treatment, so that she

can orient herself to her situation and ultimately express her decision about how she will take up her situation, then we ought to design consent forms with these considerations in mind. With regard to the consent conversation, we ought to recognize the role of the relationship between physician and patient with regard to the cultivation of the patient into a speaking subject. Patients value the relationship highly, citing it as the most significant factor in their decision-making about research participation (Kost 408). Conversely, research ethics practices tend to approach the relationship cautiously and recognize it as a threat to patient autonomy. Rather than bemoan or try to escape this reality, we could instead focus on growing ethical relationships between physicians and patients that cultivate the patient's capacity for "catching" sense, confidently expressing themselves by "throwing" sense, and choosing how to orient themselves toward their worlds as sick but speaking subjects.

It is noteworthy that the *Phenomenology* relies on the pathology and dysfunction of medical patients to illuminate perception and experience for "normal" bodies. Did any of the patients whose bodies we examine in the text, whose experiences we recount, give their consent? Research ethics requirements are broadly considered to have been instantiated by the "Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research", published in 1976. I will not criticize Merleau-Ponty or the psychology researchers he cites for conducting unethical research. We should assume, though, that the patients Merleau-Ponty writes about did not give their informed consent to be considered as case studies by any of the researchers he cites. Part of Schneider's situation is that he does not relate to his lived experience in the "normal" way – he does

not aim toward his world. Could Schneider give meaningful consent? And would he have consented to being written about in *The Phenomenology of Perception*, if given the choice?

The consent form is an object detached from the lived reality of speaking subjects – it has no voice and it speaks to no one. The *conversation* between patient and physician is most fruitful with regard to soliciting and supporting patient understanding and choice. Now that we have examined in some detail how gestures, expression, signification, and sense are taken up by being-in-the-world, it is clear that a capacity to "catch" sense is the first part of cultivating any bodily capacity, including being a speaking subject capable of speaking speech. If we aim at improving consent processes, our approaches to conducting consent conversations, and to constructing consent forms, ought to be informed by the experience of patients, and should aim at supporting sick but speaking subjects with purposive orientation toward the world.

My intent with this work was to consider a typical consent form used in health research. I planned to explicate concepts from Merleau-Ponty and Young to support my elaboration of a phenomenological account of the consent process in health research. As the consent process is made up of a written consent form and a spoken consent conversation, language is at issue throughout the consent process, and accordingly I focused on a phenomenological account of language. I found that the practice of "throwing" and "catching" sense develops powers in the patient – as she becomes increasingly capable of navigating the language of her situation, she becomes increasingly capable of orienting herself within her situation, and ultimately aiming

herself at the possibilities she chooses for herself. The physician-patient relationship provides the context in which the patient practices "throwing" and "catching" sense: the cultivation of the patient into a speaking subject requires conversation with the physician, someone already capable of "throwing" and "catching" the senses relevant to the patient's situation. In short, the physician-patient relationship is necessary to develop the patient into a speaking subject, and being developed into a speaking subject is necessary for the patient to reckon with her situation confidently.

While I have focused on language, research ethics guidelines tend to approach consent as an issue of freedom. According to Canadian health research ethics requirements, consent must be "freely given."[30] Per the guidelines, the patient is free insofar as she is free *from* undue influence or coercion.[31] The guidelines' sections on consent address relationships with power imbalances and how such relationships create the possibility of undue influence or coercion. The guidelines state that "any relationship of dependency, even a nurturing one, may give rise to undue influence even if it is not applied overtly" (33). Per the guidelines, a physician may inadvertently, and without any overt application of influence, unduly influence a patient's decision-making. From this perspective, the physician-patient relationship is a threat to the patient's freedom.

[30] In Canada, universities, colleges, and research hospitals eligible to receive public research funding are required to comply with the "Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (2022)". In its glossary, it defines consent as "an indication of agreement by an individual, or their authorized third party, to become a participant in a research project. Throughout this Policy, the term "consent" means "free (or voluntary), informed and ongoing consent" (265). The requirements for consent are elaborated in Chapter 3, "The Consent Process."

[31] See Article 3.1, subsections on "Undue Influence," "Coercion," and "Incentives."

As I noted above in my examination of research studies on health research consent, patients tend to value the physician-patient relationship highly. This valuation from patients contrasts with the research ethics guidelines which approach the physician-patient relationship more as a possible threat to the patient's capacity for free consent due to the potential for undue influence. The divergence between these perspectives is important: both patients and physicians recognize the relationship as deeply significant to patient decision making, but with completely opposite perspectives on whether it is supportive or potentially harmful. My view is that the patient valuation of the relationship is inevitable – physicians cannot escape the importance patients will attribute to the relationship. If the physicians aim toward promoting patient autonomy, they ought to recognize the potential in the physician-patient relationship for cultivating the patient into a speaking subject, which develops the patient's powers to reckon with her situation.

It is beyond the scope of my analysis here to analyze intersubjectivity and the physician-patient relationship in further detail. However, as intersubjectivity has emerged as a theme, and as freedom is thematized by research ethics guidelines, I will point toward two possible avenues for further analysis following Merleau-Ponty: approaching cultivation into a speaking subject as a means of cultivating freedom, and the relationship between intersubjectivity and freedom.

Merleau-Ponty's approach to freedom includes his characteristic critique of empiricism and intellectualism. "If we place ourselves within being, then our actions must come from the outside; if we return to constituting consciousness, then our actions must come from within" (Merleau-Ponty 2012, 481). He finds neither account

satisfactory. The empiricist account reduces to determinism; the intellectualist takes up consciousness as the cause of our actions and takes freedom as absolute. Merleau-Ponty rejects both and recognizes that we are always taking up both our materiality and our subjectivity, not as elements opposed to each other but as parts of an interconnected, interwoven whole. "What then is freedom? (...) we exist in both ways *simultaneously*…. there is never determinism and never an absolute choice; I am never a mere thing and never a bare consciousness" (480). While I am never a mere thing, my material embodiment is real. While I am not a bare consciousness, my consciousness is real. I am simultaneously materiality and subjectivity. My freedom is not negated by my materiality nor is it made absolute by my subjectivity. I am embedded in my world and in my situation, and a fundamental part of my situation is other people.

Merleau-Ponty discusses being in relation with others in his discussion of freedom. He writes that "we are mixed up with the world and with others in an inextricable confusion" (481). We are "mixed up" with other people: we cannot simply set aside relationships in which we are embedded and which make up our situation. For Merleau-Ponty, relations with others are an inescapable part of the fabric of our being-in-the-world. It would not make sense to say that my freedom has been circumscribed by the necessity of being in relation with others: I cannot unentangle myself from the inextricable confusion of being in the world with others, and so I cannot unentangle my "freedom" from the inextricable confusion in which I find myself. My being-in-the-world is an engagement between me and the world, including my relations with others in the

world, and my freedom exists within this engagement and within these relations – it cannot be extracted from the situation in which I am embedded.

Speech is relational and social: speaking subjects are in conversation with others. As speech, by definition, involves a listener engaged with a speaker, and as language is an originary mode of signification for the body, the sociality of language illuminates how my being-in-the-world is social. It appears, then, that for Merleau-Ponty my freedom does not precede my social relations, nor could it exist outside of my sociality. While it is beyond the scope of this work to address fully the relationship between intersubjectivity and freedom for Merleau-Ponty, it appears that his notion of being-in-the-world would not align with a framing of intersubjectivity contrary to freedom. On the contrary, a compatibility or harmony between intersubjectivity and freedom aligns with my analysis of language and speaking subjects.

Through the social relation of a patient with her physician, the patient may be cultivated into a speaking subject on the topic of her illness and treatment, and having been cultivated in this way, the patient has expanded her capacity to engage with her situation and to direct herself toward her aims within her world. It appears, then, that growing the patient's capacity to reckon with her situation has grown her freedom. I have not developed a detailed analysis whether the patient's expanded powers of language mean an expansion of her freedom for Merleau-Ponty, but this line of analysis merits further consideration.

Following Husserl, Merleau-Ponty explains that there is "a 'field of freedom'" in which "I have immediate possibilities and more distant possibilities" (481). By "field of

freedom" he is referring to what appears in her world as possibilities for her. In the beginning, when she first learned of her diagnosis and before she learned to "throw" and "catch" sense with her physician, the patient may not have perceived any meaningful possibilities for herself. She did not understand the words and ideas that were being used by others to describe her situation, and so her situation was ambiguous to her and her possibilities within it were indistinct. Now, she has "caught" the sense of her situation, and she is practiced at "throwing" and "catching" the senses that are meaningful to her in her situation. Through becoming practiced at "throwing" and "catching" sense her possibilities have been illuminated and appear more distinctly for her. It appears that her "field of freedom" has grown; or at least, it has become clearer and more navigable for her. As a speaking subject, the patient appears to have expanded her "field of freedom" by growing her powers for language through her relationship with her physician. If this is the case, then there appears to be a relationship between language and freedom, and it seems intersubjectivity may play a critical role in how language develops one's freedom.

If freedom for Merleau-Ponty is largely a matter of cultivating one's "field of freedom," we may find that approaching relationships as potential threats to freedom is not aligned with his phenomenology. Instead, it appears that relationships may be one way in which we take up and grow freedom. Merleau-Ponty writes that "the only way I can fail to be free is if I attempt to transcend my natural and social situation by refusing to take it up at first, rather than meeting up with the natural and human world through it" (483). Trying to evade the physician-patient relationship is an example of attempting to transcend a social situation by refusing to take it up. We may find, then, that such an

approach fails to take up freedom and that the patient should instead meet her situation *through* the relationship.

It is notable that, in his chapter "Freedom," Merleau-Ponty uses an example of a specific physician-patient relationship: "psychoanalytic treatment does not heal by provoking an insight into the past, but by first relating the subject to his doctor through new existential relations" (482). Rather than consider the psychoanalyst as a disinterested instrument driving the patient toward an insight into the patient's past, Merleau-Ponty rightfully recognizes the psychoanalyst as being, first and foremost, *in relation with* the patient. The relation between them is, on its own, part of the patient's treatment. While my focus has been on health research interventions generally, and not specifically mental health or psychoanalytic treatments, it is notable that Merleau-Ponty raises a physician-patient relationship specifically as an example in his discussion of freedom.

To conclude, I have shown that the physician-patient relationship has the potential to cultivate the patient into a speaking subject, and that becoming a speaking subject is how the patient develops the powers needed to reckon with her situation. If enhancing her powers to reckon with her situation is a means of growing her freedom, it appears that the intersubjective relation between the physician and the patient may benefit the patient's freedom (insofar as it aims deliberately at cultivating the patient into a speaking subject). Rather than undermining the patient's freedom, her relationship with her physician may instead be the context in which the patient grows her freedom she needs to navigate and reckon with her situation.

Merleau-Ponty ends the *Phenomenology* with a quotation from *Pilote de guerre*: "Man is a knot of relations, and relations alone count for man" (Saint-Exupéry 2005 quoted in Merleau-Ponty 2012, 483). We find ourselves embedded in a knot of relations. It is naive to approach the physician-patient relationship with the intent of loosening the knot enough to allow the physician to slip through it. Moreover, it does not appear to be in the interests of the patient's freedom to do so as it is "relations alone" that "count" for us. We take up our human situation as we navigate our world and orient ourselves to our possibilities within it. We are inextricably "mixed up" with others. The patient's freedom does not appear to be a matter of escaping a particular influence. Rather, the patient's freedom appears to be a matter of cultivating her powers and taking up her situation *through* the knot of relations in which she is situated. Her freedom does not appear to be undermined by intersubjectivity. On the contrary, when the sick speaking subject speaks, she speaks *with* someone. She is *in relation*, and it is *through* being in relation that she "catches" the sense of her situation and expresses her freedom within it.

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