“Merleau-Ponty’s Ontology of Institutions and the Opposition between Authoritarianism and Democracy”
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Although he is most commonly known by philosophers for his work in phenomenology and ontology, Maurice Merleau-Ponty also developed a phenomenological approach to politics. The novelty of his approach rests in a renewed use of the concepts of institution and dialectic to understand politics and history. Because he suspends our common presuppositions about the nature of the state and of political institutions in general, Merleau-Ponty’s ontology of institutions is especially relevant for the study of their essence, development, and effects.

When he began his description of the essence of institutions in 1954, Merleau-Ponty had already undertaken the task of reorienting his philosophy. His election at the Collège de France in 1952, at the very young age of forty-four, closely followed his departure from Les Temps Modernes and the end of his collaboration with Jean-Paul Sartre. It also coincided with his break from the philosophy of Marxism and with his discovery of important problems in the philosophy of Husserl, the founder of the phenomenology he had developed in his thesis, the Phenomenology of Perception. He had abandoned the little sympathy he had left for the communists and had begun to work alongside François Mitterrand with Pierre Mendès France, who became President of the Council for a brief time in 1954. As a result, Merleau-Ponty sought to redefine history, politics and the phenomenological attitude, at the same time as he hoped to develop the new ontology he was finding in the writings of his contemporaries. What Marx was missing to fully understand politics, Husserl had begun to develop: the notion of institution could
be developed even further to incorporate the most important insights of both philosophies in a renewed understanding of our relationship to the world and to other people. It would orient Merleau-Ponty’s philosophy until his death in 1961, as he was writing *The Visible and the Invisible*.

Merleau-Ponty’s use of this notion of institution presents it as the sedimentation of practices and actions, which then become available to all as the basis for the foundation of new actions. In this light, our current political institutions appear for the most part as “mutilated” or “dead” institutions, following the letter but not the spirit of institutions understood in a larger sense, where politics take root beyond the state. My first goal will be to describe broadly the approach to politics we can develop from this political phenomenology. In the second part of this paper, I will indicate how this approach leads to a critique of the state as we know it, the liberal democratic state. Third, I will suggest a way to reframe the difference between democratic and authoritarian institutions in Canada. Indeed, Merleau-Ponty’s phenomenology of institutions reveals our institutions to be less democratic than we usually believe them to be (yet more so than they have been in the past), because they encourage authoritarian behaviour rather than democratic life and relationships. In short, an approach based on the ontology outlined by Merleau-Ponty entails that democracy and authoritarianism must be understood more broadly, so as to bring into question the presupposition that the presence or absence of free and fair elections should characterise regimes.

I.

Methodologically speaking, Merleau-Ponty neither begins with actors to end with institutions, nor does he begin with institutions to end with actors. Instead, he understands their
relationship as dialectical, where both precede and depend on each other and where neither exists without the constant action of the other. He remains as far as possible from the rational choice institutionalist conception of “institutions as ‘humanly devised constraints’ on action”\(^1\), and much closer to that of historical institutionalism according to which institutions are by-products of our actions.

However, Merleau-Ponty understands the materiality of institutions as different from the materiality of political actors: institutions are akin to deeds and words; they belong to the orders of behaviour and action. To adopt one of his later distinctions, they are invisible rather than visible: they are perceived differently, as accompanying our deeds and our words – as their reverse side, so to speak. At the same time, we must understand his use of the term ‘subject’ to describe political actors as an attempt to move away from any notion of precedence or ontological primacy. Although we exist as separate bodies, he argues that it is misleading to speak of us as individuals. Instead, Merleau-Ponty’s starting point for his political philosophy is on the surface quite apolitical: it is the anonymous and generic life we share with all other humans. In this generic, human life, we are perhaps more closely tied to and affected by those with whom we interact, but through them, we are also linked to the plurality of all other humans, past and present, as well as future, through the effects of our actions and of their own. And just as we should perhaps not speak of individuals, we should not speak of actors in a strict sense, because we are always also passive and acted upon – because as we act, we repeat and modify past actions, we continue and take on traditions as our own and we renew them in the process. Insofar as we partake in institutions, we are neither individuals nor actors in the usual sense – but

subjects. It will then be necessary to define who we are as subjects if we want to understand the institutions that mediate our relationships with ourselves and others.

As subjects, we are a perspective on the historical and geographic world, where we act in order to fulfill an anonymous intention to live. It is this intentionality of life that leads us to give value to the things and actions of this world. Knowledge and action are then modifications of the existing structures of the world, as they have been instituted by others before us. We handle and we rehandle the world; we are instituted by the world and by anonymous others just as we institute and reinstitute them. Just as we are ceaselessly behaving and acting, the world is not static. As Merleau-Ponty writes: “my whole perception at each moment is nothing but the relation of a human action, [...] the sensible world is full of gaps, of ellipses, of allusions, objects are ‘physiognomies’, they are ‘behaviours’ – there is anthropological space and physical space.”

There is a distance between us and the world, just as there is a distance between us and other subjects. Through this distance, we take charge of others and are responsible for them just as they are for us, we project each other into one another, we produce something in one another, and there is between us “true communication by lateral pull.” (35) We carry each other and accompany each other: there is a hinge between us. And we do all this in the world, which is an intersubjective and symbolic field of cultural objects of different materialities. Everything we do is then done from a crack in things, from open possibilities. We respond to things and to words, to their meanings, because they are calls for action and for further words.

Here it is striking that Merleau-Ponty named the 1954 course where he elaborates on the notion of institution “Institution in personal and public life.” Institutions are a bridge between us and others. Through the effects of our constant interactions with others which institutions

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2 L’institution. La passivité. Notes de cours au Collège de France (1954-1955) (Paris: Belin, 2004): 167. From here on, references to this text will appear between parentheses. All translations are mine.
mediate, they confuse our sense of self – and their study indicates the theoretical construction of the difference between the personal and the public spheres. For Merleau-Ponty, again, we are intertwined with others to the point of having them speak through us as if it were our own voice. It is not only our world, but also our past that is instituted at once by ourselves and by others. Just as we cannot know the world in its entirety and must act on what we know, after we have attempted to know and understand what is relevant to our endeavours, we do not know our past in its entirety and we certainly do not reflect on it in most of what we attempt to do. Yet we rely on it, as knowledge we do not know we have, knowledge that is formed passively through our constant contact with our past.

In other words, our past and our world are *instituted*: they are never only or entirely ours and they depend more on others than on us. It is insofar as we behave, act and find meaning in the world and in history (insofar as we *institute*) that we continuously relate to others, dead, alive or yet to be – but we relate to them anonymously, through what they have left us and left in us, and because of what we are leaving them, through institutions.

We can now understand Merleau-Ponty’s definition of an institution as “establishment in an experience (or in a constructed apparatus) of dimensions (in the general, Cartesian meaning of system of reference) in relation to which all a series of other experiences will have meaning and will make a *sequel, a history.*” (38) An institution, he also writes, is “chain of integration, whirlwind where everything converges, where everything succeeds; recovery of an anticipation and of a regression and instauration of a true and full *now.*” (57) Every institution takes up another, which came from an attempt to answer a question, raised a new one, and failed to a certain degree; in reactivating it, it forms a new totality, it recentres it. Such questions and answers are never lived as such; instead, they are structuring principles for our lives and actions,
they are calls for action. An institution, Merleau-Ponty writes, is “meaning as open signification, developing by burgeoning, turning, decentring and recentring, zigzag, ambiguous passage, with a sort of identity of the whole and of the parts, of the beginning and of the end. Sort of existential eternity by auto-interpretation,” (87) which throws us back toward others into history.

Institutions bridge personal and public life and history: we insert our personal wishes and attempts into a collective institution that is already shared by others and where we recreate a collective enterprise as individual subjects. The party member, for instance, will attempt to change society by taking on a style of action that has been defined through the life of the party and by those who preceded her and coexist with her; yet she will also do it in her own way, according to her participation in other institutions. The same would also be true of her participation in a more informal institution such as a protest. Merleau-Ponty can then suggest that “collective history is that of imitable, participable, sedimented styles and processes.”

History then becomes not so much a matter of choices, but of work: “each partial act resounds on the whole, provokes a gap to be compensated by others.” (86) We cannot force history, we can only ground it anew and open possibilities for ourselves and for others based on what was open to all of us in the first place. Institutions are thus teleological to a limited extent, insofar as no one knows what their ends are and so no one can be oriented by them, at the same time as they emerged from repeated attempts to reach specific goals. There is instead at the heart of the process of institution a meaning, an “operant intentionality” (84) that adheres to our work and our attempts, partly unbeknownst to us. As we act and institute, something new is sedimented at the same time as something old and already sedimented is reactivated, in order for this new foundation to be laid. We institute on the basis of what has already been instituted, of what of others has passed into us, and we open the possibility of their actions on the new ground
we have unearthed. Our behaviour and actions can never be more than approximations and attempts.

According to Merleau-Ponty, we are in history insofar as we are working in the midst of others and interacting with them through our common perception of objects, events and institutions and through our action on them, and insofar we are creating a meaning for history, based on what it offers us. The truth and values we share are then perspectives and probabilities – common life and history are a first look on truth, whose meaning we must discuss in order to act it out and amplify it by integrating the perspective of others – there is a movement of truth as it is instituted and reinstituted. Meaning and understanding then arise out of the gap between perspectives and between the sketches we draw together in the attempt to bring our perspectives closer. In the end, through the institutional process, subjectivity is intersubjectivity, we are not separate for others even with our differing perspectives, insofar as others are working on the same objects and taking up the same institutions as us. Everything we do is continued by others and in others – and each of us is a subject insofar as we are the bearers of a succession of experiences and as we give meaning to the world and to history in a recurrent lateral generalisation that can only encompass others and that is affected by their own.

II.

Under this light, Merleau-Ponty initiates a critique of liberalism, insofar as it is at the origin of the common conception of the state and as it has structured the state as it has been developed across the world, but especially in Europe and the Americas. According to him, the body of the state, its laws and its processes of revision are mutilated institutions. They are institutions according to the letter but not to the spirit of the institutions that make us who we are.
True institutions are structures and frameworks, they are not fixed, they are not to be respected and enforced. They are latent and they are calls to a kind of action and creation, without respect for what has already been instituted. After all, it is through their shortcomings and failures as well as through what successes they do allow that we take them on and continue to give them life. As a result, liberalism appears as particularly problematic insofar as it posits that everything is already put into place, sedimented, instituted and not to be instituted, and especially as it shows the relationship to other subjects as a pact where others are only recognized to the extent that they are constituted by this contract, losing all capacity for change and further creation outside of the boundaries of the contract... or of the social contract.

I suggest that if we adopt Merleau-Ponty’s ontology of institutions, we should extend the domain of politics beyond the state and the domain of the law. And indeed, those who have attempted to reframe politics as emerging from personal life, such as feminists, could find important theoretical foundations for their projects in such an ontology. It is directed against the conception of the state as fixating and monopolising political activity, a state that appears as the only possible end of the movement of institution, through the achievement of a constitution that will decide on the place of each individual within the social order – and on this order.

I am arguing, based on Merleau-Ponty’s ontology, that the liberal state cannot be the symbolic matrix for a common experience and a common consciousness of history. While the state is born out of the dynamics of political action, it absorbs and attempts to regulate it exclusively. It does so by excluding all subjects and all forms of actions that remain outside of its sphere and by turning against other institutions. This state makes us forget the past that made it possible and the previous institutions based on which it was instituted, at the same time as it
negates the possibility that it might be continued, taken up, de-formed and re-formed, and eventually overthrown into new institutions.

When he writes that the state is a “mutilated institution”, Merleau-Ponty shows it as solely sedimented and no longer to be founded, as solely already instituted and no longer to be instituted, and as negating everything non-official or not defined constitutionally. It is mutilated insofar as it is a norm that we cannot take on as our own, as it is no longer a search or a work in progress that would bring forth new practices and new norms. It is only a norm that must be respected and whose respect must be enforced. What is more, it is a norm that has been instituted with a certain kind of action in mind. It cuts off the possibility of other kinds of political action, and it favours an extremely limited number of individuals that find a career in furthering it, instead of acting based upon it. It is important to see that in the codified framework provided by the state, only individuals within the state and in closer proximity to political power will have the privilege to use institutions and modify them to the extent that such minute modifications are possible.

Merleau-Ponty places the ideal of the liberal conservation of the state and the ideal of revolution back to back; however, nothing in his writings indicates that anarchism is the road to follow. I would suggest instead that if we agree with his understanding of institutions, the path we must take is that of radical reform (a path he indicated in his political interventions). If institutions are at once the product of human creativity and what allows for the very possibility of human creativity, and if we value the role of human creativity in solving new problems, we cannot let them be fixated, we cannot allow the search for meaning, truth, communication and coexistence to end.
A true institution follows an imperative in line with creativity – the imperative of coexistence, recognition, human creativity and historical work where we take into account all perspectives on the world and where we seek, as Merleau-Ponty writes, “to put all men [sic] in the game, to attempt a truly universal intermingling.” (118-119) Institutions, indeed, are an affair of social relationships and of action. In the state, relationships and actions of a certain style are elevated to the status of norms, while other styles lose legitimacy and so cannot serve as the bases for the actions of others. Since we do not choose our institutions, our institutions cannot change unless our actions and behaviour can become available to as many people as possible, in order to give them access to new possible bases for future action.

It seems that we can draw a principle for the evaluation and even for the judgment of institutions from the understanding we have drawn from Merleau-Ponty. “True” institutions, following Merleau-Ponty’s expression, begin with the irreducible plurality of perspectives and the intersubjective character of historical and mundane life, in order to further them. Other institutions limit the possibilities of political action by enforcing a certain style of action and relationship, and by focusing all political action in the sphere of the state through law, where only a few individuals hold the possibility to author new laws. In such relationships, either each of us is separate and defined as a citizen by the social contract that is our written and unwritten constitution, or all of us are part of a collective body, such as the country or the nation, sharing one perspective and one national interest which this state is purported to protect and advance. This state Merleau-Ponty describes is the liberal democratic state.
III.

Some institutions present political action as taking place under the authorship and authority of the few (that is the case of the liberal democratic state, or the state as we know it). As a result, while these institutions can be centred on laws, they are laws tied to the names of individual actors who were in specific positions and offices allowing them not only to present law projects, but to hope to see them become law. In authoring these laws, actors seek to compromise the least and have their will prevail over those of others. Other institutions attempt to maintain the possibility of action for all those who already partake in human creativity, rely on collaborative action and foster further intersubjectivity (and they tend to oppose the state, as do human rights or dissident movements). I will now argue that these two opposite and mutually exclusive kinds of institutions are in fact what we ought to have in mind when we speak of authoritarianism and democracy.

Now, in no way do I suggest that the Canadian state is authoritarian in the same manner as China, Russia or Iran would be. More comparative work would be needed to distinguish between these kinds of authoritarianism. What interests me for the moment is the difference between authoritarian and democratic institutions and their coexistence in Canada. Indeed, what sets Canada apart from more completely authoritarian regimes is this coexistence that is the result of the struggles for democracy, this institutionalization of democratic practices that is slowly changing our state. Using the term “authoritarianism” then has the advantage of reminding us of the other side of this coexistence and of the constant threat it presents to what democratic institutions do exist. Although I do not have in mind the Marxian contradiction between formal and real democracy, speaking of authoritarianism also forces us to rethink our use of the word “democracy” to describe our regime and to focus on the contradictions present in
our society, both between principles and between principles and realities. Using the term “authoritarianism” reveals democracy as the rule of the people, insofar as an ever greater number of subjects are able to exercise their political creativity, that is, the possibility to institute or reinstitute the institutions that make up society – the possibility to transform the manner in which they interact with others, in part but not necessarily solely through the state.

This antagonistic coexistence between two orders of principles and practices – two orders of institutions – can be found for instance in two of the main sets of institutions of Canadian politics: the Prime Minister, and human rights and freedoms. We find on one side notably the Charter, the reinstituted judiciary it entailed, the groups that have formed first to secure recognition in the Charter and since then to organize appeals and activism, and the institutions that provide funding for legal representation of minority groups in their appeals; and on the other side the undefined office of the Prime Minister, the PMO, the PCO, the unwritten constitutional conventions and the Constitution itself – of which the Charter is a part.

The whole history of the struggle for human rights in Canada could be read through this antagonism. While some Prime Ministers have brought in the Bill of Rights and the Charter against significant opposition and defended them, other Prime Ministers have attempted to limit the impact and the strength of the Charter. For example, as Alan Cairns suggests, the Meech Lake Accord process, headed by Brian Mulroney, was perceived by social movements to be a danger to the rights acquired through the Charter and to the inclusion and participation of members of these groups. We can also remember the recent elimination by Stephen Harper of the

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3 Here I consciously avoid using the terms ‘executive’ and ‘judiciary’, which represent the liberal understanding of the state and of politics, but not the understanding that is being put forward against it. As we will see, although human rights are enshrined in the Charter and so lead to judicial actions, they express political values and ideas that could go beyond the sphere of the judiciary. “Human rights” then refer both to the Charter, which is a part of the Constitutions, and to actions that seek to have the Charter be respected, extended in its application – or modified, as with the introduction of new social rights.
Courts Challenges Program, which turned the Charter into a mere formal legal document accessible only to those who already have the necessary funding and expertise⁴.

Criticism of the politics of human rights has been a constant staple of the Canadian political debate since the patriation of the Constitution in 1982. The main argument against it is that it takes away the power of elected officials to make laws by transferring it to appointed judges⁵. Yet perhaps this transfer of power is exactly what makes the institutionalization of human rights democratic – if we locate power correctly. Indeed, the recourse to the Supreme Court has allowed for a kind of political inclusion and participation that is usually denied by the political process⁶. A program such as the Courts Challenges has made it materially possible for individuals to appeal to the Charter even without having the personal or organization resources – but also for individuals to become actors. In Merleau-Ponty’s terms, individuals can show themselves as subjects, relate themselves to a greater group of people, enlarge their perspective and oppose it to that of those who represent the majority, and as a result, they can enter in a more equal relationship with those who are in power by speaking in the name of a larger group and acting in common with them. Appeals to the Charter and challenges to laws that are deemed unjust because of their discriminatory nature are so many extensions of human creativity. The input of the appellants may appear limited compared to that of the judges. Yet we should not

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⁴ See for instance Teresa Healy, ed., The Harper Record (Ottawa: Canadian Centre for Policy Alternatives, 2008).
⁶ What is more, this kind of inclusion allows for a common action far broader than the already difficult to achieve dialogue between the courts and the federal and provincial governments who all share the responsibility to carry out the mandate of the Charter, as described by Justice Bertha Wilson (“We Didn’t Volunteer”, Howe and Russell, 2001, Judicial Power and Canadian Democracy (Montreal: McGill-Queen’s University Press), p. 75-76). As rare as Charter challenges are, especially by individuals and on matter of equality rather than legal rights (Frederick Vaughan, “Judicial Politics in Canada: Patterns and Trends”, in Howe and Russell, 2001, p. 15), they are still permitting a degree of initiative on the part of the people that is not possible through a Parliament dominated by the office of the Prime Minister and take the political process beyond the exclusive participation of the elite.
forget that it is at the initiative of the appellants and not of judges that most of these challenges have taken place, and that intervenors must petition the Court in order to be heard at all.

In contrast, laws are authored by elected officials and more precisely (if we follow Donald Savoie’s description and analysis\(^7\)) by a few elected officials and their appointed aides, usually members of the PMO, who are close to the Prime Minister. Technically, the legitimacy of these laws – and of the Charter itself\(^8\) – comes from having been enacted by Parliament. Yet votes are decided on by party line and for the most part, laws can only be enacted if they have passed through the hands of the Prime Minister. What matters here is the authority of the Prime Minister, which he can delegate to whoever pleases him, elected or not. After all, neither the office of Prime Minister nor the PMO are described in the constitution, and these institutions have evolved through the unhindered practices of Prime Ministers, who tend to favour what is efficient over what is inclusive, and did so based on an exclusivist understanding of the convention of Parliamentary supremacy.

The institutions related to the office of the Prime Minister depend on an ambiguity where in the end, the authority that comes with the office and leads to an exercise of power often described in autocratic terms, owes less to the election by the people than it does to the popular representation and understanding of the Prime Minister and to the constant recognition, in practice, of his authority by party members and opposition leaders.

This is where we find authoritarianism in Canada. Although a democratic movement exists for instance in reference to human rights, which in practice limit the authority of the Prime Minister and his authorship of our laws by allowing extra-parliamentary perspectives to be heard.

\(^7\) Donald J. Savoie, *Court government and the collapse of accountability in Canada and the United Kingdom* (Toronto: University of Toronto Press, 2008). See also *Governing from the Centre: the Concentration of Power in Canadian Politics* (Toronto: University of Toronto Press, 1999).

\(^8\) As Justice Bertha Wilson has argued in “We Didn’t Volunteer”, *Policy Options*, April 1999, p. 8-11.
and to contradict these laws, in the end, this same authority prevails because it is accompanied by power. Just as the Prime Minister has the power to prorogue Parliament and avoid a vote of confidence in order to end the debate over his legitimacy, he has the power to change the material aspect of institutions, so as to limit the reach of human rights against authoritarian politics. The institutions based around the Prime Minister can be said to be authoritarian insofar as they are the place from where political power is taken away from those who may come together to act, concentrated and redirected toward those who are authorised to exercise it, in such a way as to limit as much as possible the number and range of perspectives which inform and shape political action and to control political creativity by limiting who has the right and the opportunity to exercise it.

If Parliament did work in the manner it presents itself in the discourse of the major parties, that is, through the power of individual members representing their constituents and along party lines following the shared or similar interests of citizens, it would be less authoritarian and more inclusive. However, new studies of Canadian politics such as Donald Savoie’s indicate that this is not the case. What’s more, by extension, because of the central role played by the Prime Minister, it is our whole system of government that can be said to be authoritarian, insofar as its principle of action is authority, and not the inclusion of the people. As our institutions stand, the progress of democracy against authoritarianism, even through the appeal to Charter rights, can only be slow and limited in scope.

In conclusion, Merleau-Ponty’s political ontology shows that for our institutions to become more democratic, we do not need what is usually called participatory democracy. What we do need is inclusion and genuine opposition, as well as a more radical form of participatory
governance on the side of those in power, in such a way as to widen the perspective from which laws are drafted and enacted. This kind of democracy, understood as a movement opposing and undermining the authoritarian institutions that are perpetuated through accepted and legitimated practices and actions, is all we can hope for at this moment (although we could add social democracy in its opposition to privilege). Yet as it develops, this democracy can bring forth the possibility of new practices and actions, of new and more democratic institutions that we cannot yet imagine. This is the meaning of Merleau-Ponty’s ontology of institutions and of the agenda of radical reform he presented: to maintain the possibility of change within institutions, toward greater human creativity through the inclusion of more subjects. Against authority and authorship, democracy presents the possibility of collective and intersubjective action.