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Abstract

In this dissertation, I explore the educative effects of deliberation through interviews and observation at two community mediation organizations in Toronto. Theorists have long claimed that participation in deliberation can change the skills and dispositions of participants in ways that make them better citizens. Despite the normative work such claims perform in justifications for participatory and deliberative democracy, they remain theoretically and empirically underscrutinized. I seek to address this by developing empirically grounded insights about the educative potential that can realistically be attributed to deliberative processes. I argue that educative claims can best be examined when parsed into three categories of *efficacy*, *interests* and *relationships*. I identify empirical contexts ripe for the study of deliberation's educative effects by sorting the deliberative field according to 1) collective decision making, 2) issue scope, and 3) participative intensity. One such context is community mediation, a process of facilitated negotiation for addressing small scale citizen disputes convened by staff and volunteers at Community Dispute Resolution organizations (CDRs). I study this case empirically through in-depth interviewing and observation at two CDRs in Toronto.

I find limited evidence that participation in deliberation in this context can strengthen the efficacy or clarify the interests of participants. Furthermore, the efficacy and interest effects I do find are often limited to the specific context of the mediated relationship. I find that relationship effects are the most salient in participants' post-deliberation narratives, but that they frequently characterize their renegotiated relationships in terms of mistrust, indifference, and avoidance. This runs contrary to the thrust of theorizing about the potential for deliberation to strengthen civic bonds between citizens. Yet participants praise this avoidance suggesting that it should be viewed, at least in some cases, as an

appropriate ideal. I conclude that a wholly dismissive view of educative claims is not borne out by the evidence of modest educative effects reported by a minority of participants. It does however, provide reasons to moderate educative claims considerably and to reinterrogate standard conceptions of what constitutes “better citizens”.

**DOES DELIBERATION MAKE BETTER CITIZENS?
EXAMINING THE CASE OF COMMUNITY CONFLICT MEDIATION.**

By

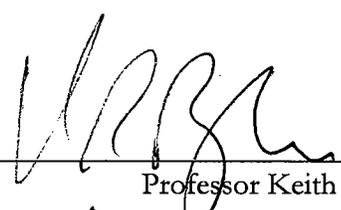
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DISSERTATION

Submitted in partial fulfillment of the requirements for the
degree of Doctor of Philosophy in Political Science
in the Graduate School of Syracuse University

May 2011

Approved: _____


Professor Keith J. Bybee

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April 15, 2011

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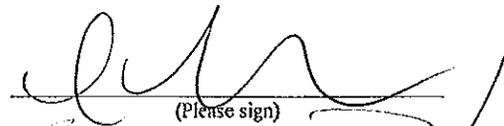
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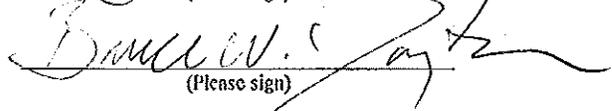
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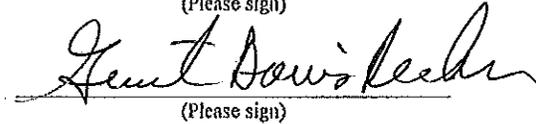
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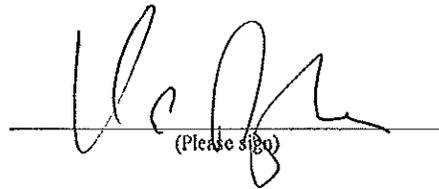
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Acknowledgments

I hope not to overstate the finality of this moment with an excessive list of acknowledgments. Completing a dissertation is after all only a modest start at something. But without the support of countless people named and unnamed here, not even this modest start would have been possible. Though I remain ever grateful for their help in bringing this project to provisional completion, the usual caveat applies- I am solely responsible for its shortcomings.

First and foremost, I wish to thank the staff and volunteers at St. Stephen's Community House Conflict Resolution Services and Conflict Mediation Services of Downsview. Without their incredible work and dedication this project would simply not exist. Special thanks go to Peter Bruer, Keri Long, Gregg Fenten and Joanne Gray for letting me into their organizations and to all the mediation volunteers who participated in the study. I am also especially grateful to the mediation participants who shared their stories with me. They showed tremendous generosity with their time and openness about their experiences.

To the members of my dissertation committee I offer my enormous thanks. Keith Bybee has been a reliable advisor, an excellent mentor, and a constant source of good humor. Elizabeth Cohen has been so helpful and inspiring that no amount of Canadian snack cakes can ever repay the debt she is owed. Tina Nabatchi has been encouraging, responsive and insightful since the day we met. Grant Reeher's advice and input have been integral to the growth and development of this project. Without Bruce Dayton's guidance I could not have begun, let alone completed, this project.

Numerous other faculty at Syracuse University now and in the past have provided valuable feedback and support including Audie Klotz, Robert Rubinstein, Bob McClure,

Dave Richardson, Kristi Andersen, Catherine Gerard, Rosemary O'Leary, Tom Keck, Matt Cleary, Danny Hayes, and Heidi Swarts. I cannot thank them enough for their attention and assistance. Thank you also to Candy Brooks and all of the staff in the Political Science Department for all of their help.

I am grateful for financial support from the Department of Political Science, The Campbell Public Affairs Institute, the Program for the Advancement of Research on Conflict and Collaboration, and the Deans' Office at the Maxwell School of Citizenship and Public Affairs. Thanks also to Sallie Guyder for the invaluable transcription work she completed.

The Program on Negotiation at Harvard Law School also provided essential support. While in residence there I had the opportunity to engage with Larry Susskind, Dennis Thompson, and Archon Fung, among other talented scholars. Although they may not remember our brief conversations, this project has benefited greatly from their insightful commentary. A very special thanks goes to Jane Mansbridge. Her work has been a guiding light and her advice and support have proven more valuable than she will probably ever know.

I am also grateful for the friends and colleagues who formed a supportive community during my time at PON. Thanks to Alex Crampton, Michael Graskemper, Sarah Whitman, Lisa Witzler, Sarah Woodside, Kristen Benakis, and Angel Park. A special thanks goes to Josh Manning, for providing healthy doses of fun and encouragement at times when they were much needed, and for his continued friendship.

The completion of this dissertation would have been a bleak process indeed without those who comprise my current intellectual and social community. There are far too many to name but I wish to thank each and every one of them for the part they have played in

helping me to this point. The friendships I have built while at Syracuse University have been absolutely integral to my work on this project. Though many friends have moved on to other places, the bonds we formed here in Syracuse have continued to deepen over time. Thanks especially to Rob Alexander, Hannah Allerdice, Jessica Boscarino, Brent Boscarino, Jessica Brill Ortiz, Nadine Georgel, Asli Ilgit, Jesse Lecy, Stephanie Lundquist-Arora, Angela Narasimhan, Hector Ortiz, Tamara Pavasovic-Trost, Deepa Prakash, Kat Sepka, Anya Stanger, Dave Stanger, and Haley Swedlund. They have brought immeasurable meaning and joy to this chapter of my life, and I know they will continue to do so as we all chart our paths into the future.

I am also fortunate that I arrived in Syracuse with an incredible network of friends already in place and that they all played a role in this journey. Joe Marrie was there as I began work on this project and long before, and for that I am forever grateful. I am also grateful for April Rehel, Tessa Liu, Vicky An, Dianne and Derrick Wong, Alison and Andrew Bradley, and Jessica Hurst. I simply cannot imagine my life without them in it, in part because I can hardly remember a time when they were not. Collectively, they make up one of the biggest reasons that I have been able to accomplish this goal. Caitlin Goggin and Sophie Kalkreuth- though they are flung far and wide across this globe, have stayed close, and it has made a world of difference. Special thanks to Larissa Atkison, who has been both the greatest of friends and the best of interlocutors as I have developed this project. It is thanks to her patient and interested ear, and her brilliant insights, that I have made important breakthroughs along the way with this work. I know our friendship will last a lifetime, but I hope that our scholarly conversations will as well.

Finally, and most of all, I wish to thank my family, Fred and Pat Pincock, Sally Pincock, Chris Pincock, Tansel Yilmazer, Mark Pincock, and Jill Vanderzand for their

constant presence and encouragement. My brothers Chris and Mark, have always been stellar role models and have taught me by example about the rewards of hard work. My sisters-in-law Tansel and Jill, inspire me constantly with their creativity and vibrancy. A lifetime of gratitude goes to my parents, for their patient, unwavering support. If I have learned how to love unconditionally, it is certainly to both of them that I owe this lesson. To my Dad, Fred Pincock, thank you for your ongoing efforts to keep me connected to my roots, both national and familial- I promise not to forget them. To my Mom, Sally Pincock, thank you for giving me your passion, and for always believing in my capabilities- especially when I do not. This dissertation is dedicated to you.

Chapter 1

Does Deliberation Make Better Citizens?

1.1 INTRODUCTION

The summer of 2009 in the United States was dubbed by some “the summer of the town hall meeting”, much to the horror of many advocates of deliberative democracy. After a failure to move forward on health care reform legislation congressional representatives returned home to their districts for the summer recess in August, to consult with constituents through a series of “town hall meetings”.¹ But quite predictably, these public displays of shouting, insults, guns, fist fights, fear mongering, ideological extremism, and bald faced irrationality were nothing like the ideal public fora democratic theorists envision. While some have warned that the meetings depicted on our television and computer screens just *might* be a sensationalized rendering of what was really going on in many cities and towns across America, suffice it to say that “the summer of the town hall meeting” will not be remembered for its ability to inspire confidence in the promise of deliberative or participatory reforms to current democratic institutions and practices in the United States, or anywhere else for that matter. These spectacles are cast by democratic reformers as perfect foils or lessons in “what not to do” and serve as fodder for those eager to champion their own favorite procedural guidelines for making deliberative participation productive and worthwhile.²

¹ This is a misnomer for several reasons. Though it conjures images of the enigmatic New England town hall meeting (Mansbridge 1983; Bryan 2004), it was not intended, like those forums, to bring together the residents of a small town to deliberate and *decide* about matters of direct local concern. Instead, these were forums for voters to tell their elected representatives about their preferences and, perhaps more importantly in this example, their fears about a matter of national policy. While the term is misleading in these ways, its use is likely a result of its ability to capture a popular conception of meaningful democratic participation which has long been romanticized and idealized.

² For examples see, James Fishkin’s New York Times Op Ed August 16, 2009 (Fishkin 2009b) and Lawrence Susskind’s blog entry for August 11, 2009 (Susskind 2009).

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They also serve to remind us, however, of a central truth about democracy, which has often been downplayed or sidelined by deliberative democrats: that democracy is in very large measure concerned with the persistence and irrationality of human *conflict*. Even more importantly they remind us that conflict, especially when enacted in face-to-face discursive forms, is extremely difficult to do with good results. Though the scope of everyday citizen involvement in democratic procedures is a matter of continual debate, citizens surely require resources, capacities, skills and dispositions that enable them to cope with conflict. How and where do they develop such capacities? Participatory and deliberative democrats have long claimed the developmental potential of participation and deliberation. Despite having ancient origins and forming a reoccurring normative justification for participatory and deliberative processes, these developmental assumptions remain underscrutinized. If we take the role of conflict in democracy seriously, how do we expect citizens to manage it? What skills, dispositions, and relations should they have in order to best cope with its presence and effects? Furthermore, do their experiences of face-to-face discursive interaction in conflictual settings improve their civic capacities to do so? In other words, does deliberation make better citizens? These are the normative and empirical questions I address in this study.

In this chapter, I begin by discussing the relationship between theories of participatory and deliberative democracy, arguing that educative assumptions are most compelling where these theories overlap. Next, I show how educative assumptions, by which I mean beliefs that deliberative participation will improve a citizen's civic capacities, are widely present in the canon of deliberative theory that has emerged in recent decades. Yet because these frequently mentioned "better citizen" claims are often considered secondary in importance to more instrumental "better decision" claims, they have received

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relatively limited analytical attention from theorists. I argue that such attention is needed because “better citizen” claims form a recurring normative justification for why a practical deliberative turn³ is needed in the design and implementation of democratic institutions. Next I turn to the existing empirical literature that has investigated these claims. I argue that though it has generated important insights about deliberation’s effects on citizens, this literature is limited by the way it conceptualizes educative effects and by the empirical contexts upon which it tends to focus. As a result, though we find some evidence to support better citizen claims, the research has not been able to adequately convince the skeptics of nor vindicate the believers in deliberation’s educative potential. I conclude by suggesting two steps that can respond to these weaknesses and in doing so advance our understanding of how deliberation does or does not make better citizens. First, future work on this question should begin with a clearer articulation of the kinds of changes that are expected and the mechanisms of the process theorized to produce them. Second, it should generate a map of the deliberative field that highlights the process design features considered most favorable to better citizen effects in order to identify more and less appropriate empirical contexts to explore deliberation’s educative potential.

In Chapter 2, I do just that, arguing that educative claims are best parsed into three categories of *efficacy*, *interests*, and *relationships*. I aim to show that claims about deliberation’s potential to 1) strengthen citizens’ subjective and objective sense of their deliberative competence (self-efficacy and skills), 2) help citizens develop enlightened preferences that incorporate their own interests and the interests of others (interest clarification), and 3)

³ The term “deliberative turn” has most often been used to refer to the articulation of a theory of deliberative democracy by several political theorists throughout the 1990s (see references in Dryzek 2000; Chambers 2003) which marked a challenge to and shift away from aggregative or minimalist conceptualizations of democracy. There have also arguably been both practical and empirical deliberative turns which have followed in part in response to these theoretical developments.

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develop civic bonds between citizens (relationship building) encapsulate the range of “better citizen” claims advanced by participatory and deliberative theorists. Next, I sort the deliberative field according to 1) collective decision making, 2) issue scope, and 3) participative intensity in order to identify empirical contexts ripe for study of educative effects. One such context is community mediation, a process of facilitated negotiation for addressing small scale citizen disputes between neighbors and/or intimates convened by staff and volunteers of non-profit Community Dispute Resolution organizations (CDRs). I study this case empirically through in-depth interviewing and observation at two CDRs in Toronto. In the remainder of the chapter, I explain the reasons for these choices and present an introduction to the community mediation process in this context as I encountered it through observation of training workshops and actual mediation sessions, focus group and individual interviews with staff and volunteer mediators, and interviews with mediation participants.

In Chapters 3, 4, and 5, I present participants’ accounts about the educative effects of their community mediation experience with respect to each of the educative categories I identified in Chapter 2. In Chapter 3, I focus on *efficacy* and argue that there are reasons to rethink efficacy expectations in several ways. First, many participants come to the mediation process considering themselves already relatively skilled and this raises questions about the remedial quality of efficacy expectations. Second, I find, contrary to the way efficacy claims are articulated by theorists and practitioners, that lasting changes with respect to confidence and skills are rare among participants, and that when they do occur they are less related to the salience of self-determination or individual autonomy in the process than they are to the relational dynamics between the parties. In Chapter 4, I focus on *interests* and again find that participants’ interest clarification claims fall short of the educative aspirations of theorists

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and practitioners. Contrary to those expectations, in many instances the mediation process reinforces the limits of face-to-face talk for clarifying interests rather than generating mutual understanding between participants. Furthermore, the interest clarification claims that are made are sometimes non-reciprocal and there is little evidence that these effects transfer beyond the specific relational context of the mediation.

I therefore argue that educative expectations posited in terms of efficacy and interests are limited in their description of the educative potential of the process for at least two reasons. First, they are limited, as many skeptics have suggested, because they provide romanticized accounts of the potential of a relatively short intervention to significantly change citizens' capacities. Second, and more importantly, they are limited because they are drawn from a misleading account of democratic experience which places too much emphasis on autonomous individual decision making and not enough on everyday interaction and relational interdependence as central features of democratic citizenship. This suggests that the "real" educative potential will come into focus in Chapter 5 where I turn to *relationships* and indeed, as I discuss there, relationship claims are more salient for many participants. They do not, however, conform to the model espoused by theorists and practitioners. Contrary to the thrust of theorizing about the potential for democratic talk to strengthen civic bonds between citizens, I find participants frequently characterize their renegotiated relationships in terms of mistrust, indifference, and avoidance. This avoidance however is praised by participants suggesting that it should be viewed, at least in some cases, as more than a suboptimal result and instead as an appropriate ideal in itself.

In Chapter 6, I summarize my overall findings concerning deliberation's educative effects in the context of the Toronto CDRs. I present the limitations of the study and discuss its implications for the field of community mediation specifically and the theory and

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practice of deliberation more generally. I argue that my study of community mediation's educative potential provides reasons to be skeptical about, though not wholly dismissive of, deliberation's educative claims as they are currently formulated, but also that standard conceptions of what constitutes "better citizens" are in need of reinterrogation. I suggest that this requires two major adjustments to the theory and practice of deliberation. First, I argue that the normative justifications for deliberation should be more heavily rooted in "better decision" claims and that better citizen claims should be invoked with greater reserve. Second, I argue that better citizen claims must be adapted to incorporate an alternate ideal of civic relations which is rooted in avoidance. I find that deliberation enables citizens to establish and sustain avoidant relationships and argue that these relationships can provide peace and make modest contributions to the cause of justice. I conclude that embracing the normative merits of civic relations rooted in avoidance will serve to make better citizen claims more consistent with empirical realities. In the next section, I begin by locating standard educative assumptions at the intersection between participatory and deliberative theories of democracy.

1.2 DEMOCRATIC THEORY AND BETTER CITIZEN CLAIMS

There is a long standing tradition of claims about the educative effects of democratic participation, which are most clearly articulated in participatory theories of democracy. In contemporary democracies citizens have few opportunities to exercise direct unfiltered self-government, by which I mean having direct authority to reach collective decisions about their shared problems. Realities of scale and complexity of governance preclude this as a general approach to democratic institutional design and even make it challenging to

incorporate in more partial or piecemeal ways.⁴ This is to the dismay of those with participatory commitments who believe that the value of political autonomy is central to the very essence of democracy and should, as much as possible, be prioritized in the design of democratic systems. Participatory democrats express their commitment to political autonomy as self-government in two key ways. First, by endorsing the use, as much as possible, of collective decision making processes that give citizens the opportunity to be directly involved in governing themselves by empowering them to make binding decisions about the shared problems they face. Second, they do so by seeking to establish collective decision making processes that develop citizen capacities and competencies to be self-governing, that is to make these processes self-reinforcing through their educative effects.

This potential, for citizens to be improved through their participation such that participatory processes are self-reinforcing is a core assumption for participatory democrats (Hayden et al [1962] 2005; Kaufman 1969; Kaufman 1960; Pateman 1970) who draw on earlier claims put forward by ancient and modern political theorists (such as Aristotle, Rousseau, Mill).⁵ Participatory democrats place considerable weight on deliberation as a method of citizen engagement. While some have associated “participatory democracy” with the political activism of direct action (Hayden et al [1962] 2005), and partisan mobilization (Mutz 2006), the core of a participatory conception of democracy underscores the need for direct citizen involvement, not simply as demonstrators in the streets, nor as guides or advisors to political officials, but as individuals directly empowered to make collective decisions regarding their shared concerns (Kaufman 1960; Arnstein 1969). Although participatory democrats have sometimes called for reforms consistent with aggregative

⁴ Mark Warren has called these piecemeal reforms “retrofitting” and notes that these initiatives themselves suffer from democratic deficits (Warren 2009).

⁵ For a review of the history of such claims see (Mansbridge 1999a).

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approaches to democracy such as referenda (Barber 2004, 281), they more often focus on opportunities for relatively small groups to make collective decisions through face-to-face communication along the lines of the oft romanticized “town hall meeting” (Mansbridge 1983; Bryan 2004). In theory, it is in these discursive settings, where citizens are expected to explore their interests and engage in problem-solving, that the educative goals of participation are best realized.

As a result, although the heyday of the participatory movements of the 1960s and 1970s has passed, the educative claims at the core of the theory have been kept salient by the so called “deliberative turn” in democratic theory (Chambers 2003; Dryzek 2000). Like participatory democrats, deliberative democrats place significant weight on political autonomy and the transformative potential of democratic processes. Rather than focus on direct citizen self-government as an end in itself however, they emphasize the need for reasoned decisions that can be accepted by all. They argue that, under conditions of disagreement, decisions are most legitimate when they are based on reasons that are developed and articulated through discursive processes and recognized by all who are affected (Habermas 1987; 1990; Cohen 1989; 1996; Rawls 1993; Gutmann and Thompson 1996). Although the theoretical project of deliberative democracy at its core does not require lay participation, indeed some focus on the question of elite and representative deliberation (Bessette 1997; Steiner et al. 2004), much of the theory suggests the involvement of lay citizens in decision oriented deliberative processes (Gutmann and Thompson 1996; Fishkin 1995; Fung and Wright 2003; Leib 2005).⁶ Although lasting individual effects are secondary to the goal of reasoned decisions for deliberative democrats, allusions to these individual effects are nevertheless widely present in their work. This is owing in part to the

⁶ Leib provides an explicit argument for his focus on mass instead of elite deliberation. He describes himself as a “populist deliberative democrat” to make this distinction clear (2005, 35).

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legacy of their participatory predecessors.⁷ Moreover, despite the tensions between and different foci of participatory and deliberative conceptions of democracy (Cohen and Fung 2004; Fung 2007a), it is where they overlap that claims about the lasting educative potential of democratic participation are most common and compelling.⁸ These two conceptions overlap in the case of participatory deliberative processes, which I define as those that incorporate face-to-face discussion amongst lay citizens with efforts to reach collective decisions concerning shared problems.

Below I aim to show that, despite being longstanding and widely present in the maturing and highly variegated deliberative democracy literature, these educative claims remain theoretically underscrutinized. In particular, the shift in deliberative theory to acknowledge the persistence of conflict, jettison consensus as the aspirational ideal, and to admit selfish and emotional expressions as permissible and valuable for the goals of political autonomy and equality, has implications for the theoretical underpinning of educative claims which have not been fully articulated. In part as a result of these theoretical limitations, the growing empirical literature on deliberation has not tended to focus on the concepts or contexts that are most appropriate to educative theories of deliberative participation. This absence of theoretical and empirical scrutiny of core assumptions must be addressed, not only to fill in gaps in our empirical knowledge, but because the normative justifications for participatory deliberative processes currently rest in no trivial part on these assumptions.

⁷ The idea that reasoned consensus can be approached through deliberation relies on the assumption that individual understandings of preferences are altered in lasting ways and this has direct bearing on the primary goals of deliberative democracy. However, a broader set of claims concerning the range of civic capacities that are developed as a result of deliberative experiences originate from participatory theory.

⁸ Fishkin agrees that “the educative function is most compelling for the face-to-face variants” of participatory democracy (2009a, 78).

1.2.1 Deliberative Democracy and Educative Assumptions

The claims advanced by theorists of deliberative democracy can be divided into two general categories. First, and most important for most theorists of deliberative democracy, is the concern with producing better collective decisions. They claim deliberative decisions are “better” because they result from discursive processes of reason giving and mutual justification between all those subject to those decisions, and this renders them more legitimate (Habermas 1987; 1990; Elster 1986; Cohen 1989). Second, and of secondary importance in this early theorizing, is the concern with producing better citizens. Here “better” refers to a range of lasting changes that individuals undergo as a result of their deliberative experience(s) that make them more capable citizens. In this , I aim to show that this desire to make better citizens is widely shared by and normatively significant for deliberative theorists.

Though they acknowledge their debt to republican theorists from Aristotle to Arendt that stress self-government and public deliberation as ends in themselves and expressions of the “good life”, much early theorizing about deliberative democracy concentrates on the foundations of its legitimacy claims (Cohen 1989; Elster 1986; Cohen 1997a; Gutmann and Thompson 1996; Bohman 1998; Estlund 1997).⁹ Embedded in these arguments however, are assumptions about how the process is individually transformative. For example, an early articulator of the deliberative conception of democratic legitimacy, Bernard Manin, stresses generally that political deliberations are “processes of education and training in themselves” and that the instrumental outcome is likely to follow in part because of the “educative effect of repeated deliberation” (Manin, Stein, and Mansbridge 1987, 354, 363).

⁹ Much of these early debates about deliberative democracy’s legitimacy claims concern whether they have procedural or epistemic bases. For a recent effort to reconcile this tension into a philosophical framework of “epistemic proceduralism” (to which I will return in Chapter 6), see Estlund (2007).

Most often stressed in these accounts is the expectation that through discursive interaction and as a result of reason giving, participants will come to conceptualize their preferences differently. Specifically, “the need to advance reasons that persuade others will help to shape the motivations that people bring to the deliberative procedure” (Cohen 1997a, 76). This expectation is based on the view that selfish arguments are illegitimate in a debate framed in terms of public good. Though this may begin as mere lip service to the common good, there is an assumption that over time psychologically this becomes difficult to do without in fact acquiring these other-regarding preferences (Elster 1997, 12). Therefore, even the primary claim about how ideal deliberation leads to more legitimate decisions incorporates expectations about individual transformation that have implications beyond the particular decision at hand. This implies that a public-spirited orientation may be a more general lasting effect of the process of discursive preference formation under ideal deliberative procedures because these procedures are expected to “shape the identity and interests of citizens in ways that contribute to an attachment to the common good” (Cohen 1997a, 79; see also Gutmann and Thompson 2004, 11).

The opportunity to engage in discursive preference formation is also expected by deliberative theorists to contribute to the development of autonomy. According to Warren, autonomy refers to a “capacity of judgment”, which enables the formation of preferences through examination and evaluation of “wants, needs, desires, values, roles, and commitments” instead of “manipulation, brainwashing, unthinking obedience, or reflexive acceptance of ascribed roles” (Warren 1992, 11-12; see also Warren 1996). Relatedly, in a summation of Rawls, Cohen writes that “democratic politics should be ordered in ways that provide a basis for self-respect, that encourage the development of a sense of political competence, and that contribute to the formation of a sense of justice” (Cohen 1997a, 69;

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citing Rawls 1971, 473-4). And Rawls himself states that democratic politics ought to involve public deliberation oriented towards the public good in part because this “lays the foundations of civic friendship and [shapes] the ethos of political culture” (Rawls 1971, 234). Therefore, in addition to its potential to make participants more public-spirited, deliberation is also suggested to have lasting effects on participants’ autonomy and on the nature of their relations with other citizens.

These assumptions become more explicit when deliberative democrats have sought to apply their theories to real world collective decision making processes. Gutmann and Thompson’s classic contribution to deliberative theory explicitly stresses that deliberation will leave many moral disagreements unresolved, but they maintain that its value stems largely from its ability to “help citizens treat one another with mutual respect as they deal with the disagreements that invariably remain” (1996, 9). This mutual respect is sustained by civic virtues of civic integrity and civic magnanimity (1996, 81-85). Though they note that these civic virtues require explicit teaching in the schools, Gutmann and Thompson also consider deliberation itself to be educative and stress the importance of deliberative decision making both inside and outside politics due to its educative function. They argue that citizens need to engage in deliberative decision making in the workplace and when at leisure in order to “cultivate the virtues of deliberation” and to “develop either the interest or the skill that would enable them to deliberate effectively in politics,” concluding that “the discussion that takes place in these settings not only is a rehearsal for political action, but also is itself a part of citizenship in deliberative democracy” (1996, 359). Other concrete proposals for institutional reform of the American political system intended to fix its “legitimacy deficit” have also suggested that citizen deliberation would “contribute to the

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kind of civic virtue communitarians and republicans alike think necessary for the proper functioning of a democracy” (Leib 2005, 4, 83; see also Ackerman and Fishkin 2005).

Autonomy, a sense of political competence, attachment to the common good, the foundations of civic friendship, and mutual respect are all lofty educative claims embedded in these early articulations of deliberative theory. They are no doubt part of the reason that deliberative democracy has come under considerable attack from critics who have found it naïve, utopian and even dangerous (Shapiro 1999; Przeworski 1998; 1999; Sunstein 2003; Knight and Johnson 1997; Sanders 1997; Fish 1999; Young 1999; 2001). Some of these critics have narrowed in on deliberative theory’s educative claims, including increased autonomy and an expanded sense of community, casting them as central normative justifications of the theory they are criticizing (Sanders 1997). By now several retrospective reviews (Bohman 1998; Mansbridge et al. 2010; Bachtiger et al. 2010) have noted how deliberative theory has shifted, adapted and broadened to respond, at least in certain formulations, to these critiques by acknowledging a legitimate role for expressions of self-interest, recognizing the value of a wide range of discursive forms including emotional appeals, storytelling, rhetoric, narrative; and clarifying the synergies between deliberative and non-deliberative decision procedures like voting, adjudicating, and bargaining (Dryzek 2000; Mansbridge 2006; Thompson 2008; Polletta 2008). This “coming of age” of deliberative theory¹⁰ has certainly not eclipsed the presence of educative claims, they remain bubbling at the surface; yet it has served to complicate the nature of these claims in some instances.

For example, in their corrective to the “classic ideal” of deliberation which carves out a broad space for the legitimate expression of self-interest in deliberation, Mansbridge and colleagues provide added theoretical complexity to the now familiar claim that

¹⁰ This phrase comes from Bohman (1998).

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participation in deliberation will change preferences for the better (2010). They make a distinction between opinion change and transformation with regard to interests, with the latter being the more significant, even if less likely, sort of individual change. While opinion change results from exposure to new information, discovery of logical mistakes in one's thinking, or adoption of a long-range view, "transformations in the direction of the common good" are produced by perspective taking, the development of new or strengthened understandings of justice, or strengthened ties to a newly formed or pre-existing communal entity (2010, 78). Deliberation is educative only when it produces these latter kinds of changes and such outcomes are considered among "the most valuable features of deliberation" though they are expected to be much rarer than more straightforward changes in opinion (2010, 79).¹¹

Emphasis on the normative importance of these deeper transformations has also been a feature of Seyla Benhabib's recent work (2004; 2006; 2007; 2008). Benhabib develops the concept of "democratic iterations" to refer to "the complex processes of public argument, deliberation and exchange through which universal rights claims and principles are contested and contextualized, invoked and revoked, posited and positioned, throughout legal and political institutions, as well as in the associations of civil society" (2004, 179). Oriented towards debates about legal cosmopolitanism and transnational migration patterns, Benhabib aims to reconcile the tensions between universal human rights claims and the right to self-government of individual polities. Drawing on Derrida's concept of "iteration" she argues that the very meaning of rights claims are transformed through their repetition and

¹¹ As I will elaborate below, much of the empirical work on deliberation's effects has emerged from the public opinion tradition and has therefore focused on testing more surface level opinion change instead of focusing on the transformative processes emphasized by normative theorists.

contestation in the public sphere.¹² On this view, deliberative processes not only offer a legitimate way to manage conflicts generated by competing rights claims, in so doing they can also transform political identities and the quality and composition of the political community itself. In other words, when citizens learn through these iterations to be more inclusive and cosmopolitan, they are transformed into “better citizens”.¹³

A second point of emphasis in more recent deliberative theory has stressed that, in addition to generating attachment to shared understandings of the good, deliberation can be considered educative when it clarifies previously obscured conflicts and promotes further contestation. The recent works mentioned above each feature this emphasis. According to Mansbridge and her collaborators, the clarification of conflict becomes a normatively defensible outcome of deliberation once the legitimate place for a properly constrained self-interest is affirmed (2010). And, ongoing contestation is also central to the transformative potential of democratic iterations as outlined by Benhabib. This recent emphasis on conflict and contestation is motivated in part by a desire to address the criticisms of agonists who argue that deliberative theory fails to recognize the basic nature of politics as a contest between adversaries (Mouffe 2000).

In a similarly motivated response, John Dryzek recasts deliberative democracy in part as the engagement of discourses in a public sphere (2000; 2005).¹⁴ According to Dryzek, discourses underlie identities, but they are “amenable to reflection” and can change as a

¹² For a compelling critique of Benhabib’s reading of Derrida, see (Thomassen 2010). Thomassen is skeptical of Benhabib’s attempt to limit the effects of iterability. He argues instead that the positive potential of iterations can only be embraced in combination with their risks. See also Honig in (Benhabib 2006).

¹³ According to Benhabib, this learning is mutual. Majorities learn to adjust their interpretation of universals to admit previously overlooked particulars, and minorities learn to adjust their particular claims in ways that attach to universals (2004, 57).

¹⁴ Dryzek uses the term “discursive democracy” to distinguish his theory from earlier articulations of deliberative democracy. According to this ideal, the public sphere can be more open to contestation because it is semi-detached from state institutions. In this way it can influence governmental actors without needing to succumb to the same decision-making pressures that apply to deliberation tied to sovereign authority.

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result of deliberative processes of persuasion (2005, 225). Dryzek is skeptical about agonism's ability to convert enemies into adversaries and presents deliberation as a process of social learning that can better channel contestation and conflict in productive directions. The occurrence of this social learning therefore depends on continued engagement and contestation of discourses- meaning that the surfacing of conflict is considered educative. It does so when it prompts the reshaping of identities (2005, 235) and reconstructs relationships (2005, 225) in the direction of greater inclusion, or at least more "civilized engagement" (2005, 221).¹⁵ As these examples illustrate, deliberative theorists continue to rely in part on educative assumptions to justify their theories even as they render those theories more complex. Overall, though "better citizen" outcomes are rarely if ever positioned as a primary purpose or goal in theories of deliberative democracy, they have nevertheless been invoked frequently from the outset and with increasing nuance to help make the normative case for deliberative democracy.

Not surprisingly, these claims have garnered attention in the burgeoning field of empirical research on deliberation and captured the imagination of deliberative practitioners. As scholars have struggled to bridge the gap between normative and empirical study of deliberation (Thompson 2008; Mutz 2008; Rosenberg 2007a; Neblo 2005; 2007; 2010; Bachtiger et al. 2010), these claims have been given a more prominent place in the emergent empirical research agenda. Some have insisted on the continued primacy of better collective decisions stating that "learning about issues, gaining a sense of efficacy, or developing a better understanding of opposing views- should be regarded as instrumental to this aim" (Thompson 2008, 502-3), but most have posited better citizen claims as equally important

¹⁵ Note that while recent deliberative theorists assert the centrality and importance of contestation in an effort to address the agonist critique, they continue to see conflict as an outcome that serves the eventual realization of more inclusive identities. This is still in tension with agonism's conception of politics as always dependent on we/they distinctions (Mouffe 2005, 24-25).

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avenues for empirical exploration. For example, Fung and Wright's 2003 volume of empirical case studies notes the "schools of democracy" hypothesis as one of six questions about process and outcomes that form their research agenda (Fung and Wright 2003, 32).¹⁶

In his 2007 edited volume advancing a research agenda for empirical scholars that is deeply informed by deliberative theory, Rosenberg suggests that within the range of theoretical orientations to deliberative democracy there is a consensus about its potential to contribute to:

(a) the making of more effective and just policy decisions, (b) the building of more united communities that embrace group and individual differences, (c) the facilitating of more equal, caring and cooperative social relations, and (d) the fostering of greater levels of cognitive and social development of individual citizens

(Rosenberg 2007a, 14-15)

The last three are all forms of better citizen claims. In the same volume Joshua Cohen, while reflecting on the empirical chapters, observes that there is much attention placed on evaluating decision outcomes but little empirical study of the "intrinsic" virtues of deliberation. Cohen articulates these intrinsic values in the form of better citizen claims, citing deliberation's capacity to generate mutual respect and a sense of community. They account for the "intuitive attractions of deliberative democracy" he says and their purpose is to establish that "deliberative democracy is a compelling ideal" while other claims merely serve to "strengthen the case by showing the fit with justice and with effectiveness of policy" (2007, 229).

In her survey of the social and political psychology research findings relevant to deliberative democracy, Tali Mendelberg outlines eight goals of deliberation that merit further study. They include increased engagement, tolerance, understanding of preferences, identification of common interests, empowerment, and social capital. Though she notes

¹⁶ Despite this however, the empirical case studies in this volume do not address educative questions.

improved political decision making and greater legitimacy for the constitutional order as well, her list is heavily dominated by educative goals (2002, 153). Even those explicitly focused on the potential for citizen deliberation to influence policy decisions have noted its potential, bolstered by anecdotal evidence, to empower citizens politically and psychologically in their list of possible effects (Goodin and Dryzek 2006). These examples illustrate that efforts to map out an empirical research agenda for deliberative theory have raised the prominence of better citizen claims.

In the practical field as well, deliberative practitioners adopt explicitly participatory orientations to their projects and articulate better decision and better citizen goals with equal weight. Take for example the mission statement of the Deliberative Democracy Consortium where both are advanced together:

Central to our work is the conviction that the outcomes of deliberation result in qualitatively better, more lasting decisions on policy matters. Participation in such forums is central to democratic renewal. Essentially, our view is that democratic deliberation is a powerful, transformational experience for everyone involved--citizens and leaders alike--which can result in attitudinal shifts toward the institutions and practice of democracy overall... [The] Consortium has embarked on an ambitious research agenda that will build knowledge around the actual impact of deliberation upon civic attitudes and behavior, and the sustainability of follow-on efforts. Our hypothesis in this work is that, with expanded application, increased frequency and greater visibility, deliberative democracy can invigorate and rekindle the civic virtues of trust, participation and responsibility.¹⁷

As these statements imply, a growing body of empirical literature has emerged and contributed much to our understanding about deliberation including its educative potential.¹⁸

As I will argue below however, this literature continues to have blind spots concerning the way that it specifies and operationalizes educative effects and the kinds of deliberative

¹⁷ http://www.deliberative-democracy.net/index.php?option=com_content&view=article&id=77&Itemid=271, last accessed January 21, 2010.

¹⁸ For a good overview of existing empirical research see Abelson and Gauvin (2006).

venues where it seeks them out. As a result it does not yet fully respond to the calls of scholars concerned with generating more fruitful collaboration between normative and empirical study of deliberation.

1.3 DELIBERATION'S EDUCATIVE EFFECTS: THE EMPIRICS

While educative claims are recurrent in the literature, they are rarely specified in ways that lend themselves easily to empirical study. The claims reviewed above can be divided into two broad categories, those that relate to individual changes in the attitudes and behaviors of participants (see d in Rosenberg's list) and those that relate to changes in the social relations between citizens in a political community (see b and c in Rosenberg's list). In trying to operationalize these various claims, empirical scholars have largely focused on the first set of categories relating to individual change. This is not surprising given that many such scholars are working in the political behavior and public opinion field which has traditionally taken the individual as its unit of analysis. Aside from a focus on the individual however, these scholars have actually developed an "opinion track" in the deliberation research agenda that attends to related but different concerns from those initially articulated by deliberative democrats.

While deliberative democracy developed as a theory concerned with the problem of moral disagreement (Gutmann and Thompson 1996) and the need to make legitimate collective decisions under conditions of deep pluralism (Cohen 1997b; Rosenberg 2007a), the opinion track has been more focused on the symptoms of this problem. Noting low interest and participation in electoral politics on the part of the citizenry (and the American citizenry in particular), it begins from the problem presented by the "limitations of public opinion as we find it in mass society" (Fishkin 2009a, 7), claiming that "the debate over the process of opinion formation forms the foundation for discussions of deliberation" (Jacobs,

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Cook, and Delli Carpini 2009, 5). This frame draws on the findings of several decades of public opinion research that paints a picture of a rationally ignorant or uninformed public (Downs 1957; Delli Carpini and Keeter 1996), who express meaningless doorstep opinions and non-attitudes (Converse 1964; see also Bishop 2005), or form their opinions through irrational and short sighted processes (Schumpeter 1942), that are reinforced through homogenous networks (Mutz 2006), and highly susceptible to a constant onslaught of elite manipulation tactics (Jacobs and Shapiro 2000). Concerned with these realities, the opinion track turns to deliberation as a way of generating meaningful public opinion that can serve as a reliable indicator to political representatives entrusted to carry out the public will. This emphasis on opinion formation situates the opinion track at a distance from the strand of deliberative theory focused on binding collective decisions and even further from the participatory strand of deliberative theory which seeks to empower citizens directly to make such binding decisions. This divergence has implications for better citizen claims. While not all empirical research has been conducted on the “opinion track”, as my review below aims to show, this perspective has greatly shaped the body of existing empirical research and resulted in notable blind spots with respect to the what and where of educative effects.

1.3.1 *What* are deliberation’s educative effects? Studies of opinion quality

Following from the influence of opinion track approaches to deliberation, much empirical work is focused on opinion change and largely overlooks more foundational claims about the effect deliberation can have on a broader set of civic and political capacities. Instead, empirical scholars in this track are concerned with testing the effect of deliberation on opinion quality meaning the extent to which opinions are more informed, consistent, and durable following deliberative experiences. They have found that citizens learn information as a result of deliberation (Luskin, Fishkin, and Jowell 2002; Barabas 2004; Rose 2009),

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including information that is unfavorable to their pre-deliberative opinions (Fishkin 2009a, 139; Hansen 2004, 135), and that changes in their opinions are related to these information gains. Changes in voting intentions have also been shown to follow from information gains and policy opinion changes that occur during deliberation (Luskin et al. 1999; Fishkin 2009a, 135-9). Disagreements exist however about the specific mechanisms responsible for information gains and associated opinion change.

Goodin and Neimeyer find that these changes result from information sharing and individual internal “deliberation” rather than the face-to-face discussions between participants that follow in many deliberative processes (Goodin and Niemeyer 2003). Others have shown that, at least in some cases, it is the “on-site” portion of these deliberative experiences and not the briefing materials provided in advance that account for much of the learning and opinion change (Farrar et al. 2010). These findings support the self-reports of participants who themselves place the greatest emphasis on small group discussions, but they do not hold up for deliberation of high salience issues (Fishkin 2009a, 120, 220n. 22). Evidence of deliberation’s effect in low salience issue contexts and on individuals with weak opinion strength (Barabas 2004) suggests, to the delight of opinion track scholars, that those most vulnerable to the doorstep opinion phenomenon (Converse 1964) benefit the most from deliberation. The potential, however, for deliberation to generate more informed opinions when they are strongly held or on “hot button” issues (arguably when they are most needed), is called into question by this research.

In addition to information gains, opinion track scholars have explored the quality of post-deliberative opinions by measuring their consistency (Lindeman 2002) and durability. Consistency has been measured in numerous ways including net opinion change, ideological consistency, “single-peakedness”, and social influence. Net opinion change among group

members in a particular direction, while controversial from a political standpoint, suggests that individual opinion changes are non-random. Aggregate changes are also encouraging for opinion track scholars concerned with capturing considered *public* opinion in ways that can inform political representatives. There is repeated evidence of net opinion change in some deliberative contexts (Luskin, Fishkin, and Jowell 2002; Fishkin and Luskin 2005; Neblo 2010) suggesting that post-deliberative opinions are more consistent. Those examining consistency in ideological terms by looking at the match between issue opinions and broader ideological commitments, have found mixed results raising doubts that deliberation increases opinion quality (Sturgis, Roberts, and Allum 2005). According to some, exposure to counterarguments does not yield more ideologically consistent results in the aggregate because those changing for the “right” reasons cancel out those changing for the “wrong” reasons (Jackman and Sniderman 2006).¹⁹

In another approach, studies assess “single-peakedness”, meaning the extent to which participants agree about the structure of preference ordering such that the probability of voting cycles is reduced and the meaning of majority rule is preserved (Riker 1982). Like the link between information gains and opinion change, increased proximity to “single-peakedness” is most pronounced with low salience issues and among those who gain the most information (Fishkin and Luskin 2005; List et al. 2007). Other scholars have sought to uncover the mechanisms of social influence behind deliberative opinion change. They find some evidence that it is respect for one’s interlocutor as opposed to friendship, familiarity, personality, race, or gender that account for opinion changes (Neblo 2010). Finally, increased opinion quality has been measured for its durability in terms of its ability to resist elite manipulation. For example, Druckman and Nelson find that cross cutting small group

¹⁹ For an opposed perspective suggesting that opinion quality can be gauged by a *weakening* of the relationship between ideology and post-deliberative opinions, see Neblo (2010) and fn. 24 below.

discussions dampen the effects of elite manipulation (measured through exposure to op-ed articles) on individual opinions (2003). Relatedly, Chong and Druckman find evidence to suggest that exposure to competing elite frames encourages deliberation, but that resulting opinions are ultimately shaped according to the strength and availability of those frames far more than their validity or relationship to evidence (2007, 652).

Overall, this growing body of research has produced mixed results that suggest reasons for both skepticism and optimism. As a result, it has not managed to resolve questions about the effect of deliberation on opinion quality. Though it appears clear that citizens can learn factual information in deliberative settings and that opinion changes are related to this learning, this opinion change may be primarily an individual and internal process. While some may be happy with such results regardless of the phase of the process that produces them, such a finding would fundamentally challenge the emphasis placed on discursive interaction by deliberative theorists.

To the extent that opinion change can be shown to be an interactive process, there are mixed results concerning its likelihood to result from social pressure versus reason-giving. At best, aggregate opinion change may be a wash between these different processes, raising doubts about the normative appeal of face-to-face deliberative processes. Indeed, a long standing research agenda in social psychology on small group discussion suggests there is not much reason to accept the assumption that deliberation encourages citizens “to approach the discussion with a mind open to change” or that the changes which are observed actually result from “exchange of relevant and sound reasons” as opposed to “social pressures, unthinking commitments to social identities, or power” (Mendelberg 2002, 181). This largely experimental research, bolstered by studies of real world organizations and juries, suggests

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that observed opinion change most often results from social processes of conformity and domination (Sunstein 2003; Sunstein 2009; Sanders 1997).

Some more recent deliberation research also finds that the greatest opinion changes result in groups where the balance shifts towards consensus (with 2/3 or more in agreement) (Barabas 2004) suggesting a kind of bandwagon effect. Others find confirmation of the polarization of groups resulting from unbalanced argument pools and social comparison effects (Schkade, Sunstein, and Hastie 2006). Advocates of deliberation have argued that these findings are precisely the reasons why particular features of deliberative processes (such as balanced information, representative participation, and skilled moderation of discussions) are crucial in order for opinion quality to improve. Indeed if the research on opinion quality reveals anything it is the importance of setting and context (for example: experimental vs. real world, formal vs. informal, citizen jury vs. deliberative poll) to the research findings.

As I will discuss in section 1.3.3, these concerns point to the need to pay close attention to the structure and design of the different processes being called deliberation in order to assess 1) how well they align with the regulative ideals articulated by normative scholars, and 2) what mechanisms of the process are theorized to produce particular outcomes. While some notable research has begun to attend to the “black box” of deliberation itself, yielding both optimistic (Siu 2008) and pessimistic (Rosenberg 2007b) appraisals of the quality of real world deliberation, more is needed to convincingly tie deliberative experiences to changes in opinion quality and to demonstrate that such changes approach the ideals of deliberative theory. Most importantly however, this sustained focus on opinion quality, though a major concern for opinion track scholars, is fairly peripheral to the core educative claims advanced by other deliberative theorists. To be sure, in some

respects these studies of opinion change are related to the transformations deliberative theory describes since they examine how individual preferences (most often in the form of policy opinions) change as a result of deliberation. Their focus however is on the relationship between factual information and opinions and the “quality” of opinions in terms of their consistency and durability. Recall that this is not the sort of transformation deliberative scholars are primarily concerned with because it does not analyze the content of these opinions for their relationship to self-regarding or other regarding interests (Mansbridge et al. 2010). With respect to opinions or preferences, that is the sort of more ambitious transformation at the core of “better citizen” claims advanced by theories of deliberative democracy. Furthermore, studies of opinion quality do not examine changes in the attitudes or behaviors of participants that are associated with the capacities required for citizenship.

1.3.2 *What are deliberation’s educative effects? Studies of civic capacities*

While these studies of opinion quality have dominated the empirical literature, others have attended to attitudes and behaviors that are closer to the core educative claims of deliberative theory. A whole host of measures of “political capital” have been applied in order to capture deliberation’s effects on political attitudes (Jacobs, Cook, and Delli Carpini 2009).²⁰ These measures come from a long tradition of political behavior research that has most often conceptualized political attitudes as independent variables in order to explain political participation and especially voting behavior (Campbell, Gurin, and Miller 1954; Campbell, Converse, and Miller 1960). They include citizens’ attitudes towards themselves

²⁰ Though Jacobs et al present the concept of “discursive capital” in their early chapters, they do not return to it in their empirical chapters. This is unfortunate because, as I will elaborate, one key limitation of this literature is its failure to identify educative effects that are particular to *deliberative* participation. The concept of “discursive capital” has promise to be just that kind of measure but Jacobs et al do not develop it further (see Jacobs, Cook, and Delli Carpini 2009, 3-4, 26).

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and politics (internal political efficacy, interest in politics, political attention, partisan and ideological strength), towards government (external political efficacy,²¹ trust in government), and towards other citizens (empathy, political tolerance, social trust, sociotropism/public spiritedness). These attitudes are considered important because of their expected effect on political and civic participation, another measure of “better citizens” often introduced by empirical scholars. In some cases, researchers have combined many of these discrete measures into one index and found evidence of a causal relationship between participation in deliberation and increased political capital (Jacobs, Cook, and Delli Carpini 2009, 101).²² Others have disaggregated these attitudes and examined deliberation’s effect on one or more separately.

1.3.2a *Civic capacities: citizens’ attitudes towards themselves, politics, and government*

With respect to citizens’ attitudes towards themselves and politics, there is evidence that deliberative participation increases political interest (Luskin, Fishkin, and Jowell 2002). Studies also find statistically significant evidence to suggest that deliberation can strengthen the internal political efficacy of participants (Fishkin 2009a, 141; Luskin, Fishkin, and Jowell 2002), and racial minorities in particular (Nabatchi and Stanisevski 2008). Others have presumed this effect based on observed changes in voting following jury deliberations (Gastil, Deess, and Weiser 2002). Self-reports from other deliberative processes also provide

²¹ Internal political efficacy is a measure of a citizen’s beliefs about their own political competence while external political efficacy is a measure of a citizen’s beliefs about government responsiveness to their participation (see Balch 1974; Craig, Niemi, and Silver 1990; Niemi, Craig, and Mattei 1991; Morrell 2003; Morrell 2005).

²² Unfortunately, Jacobs et al’s recent study, which in many ways represents a giant step forward for the systematic empirical study of deliberation, aggregates different categories of educative effects in ways that conceals the particular causal mechanisms associated with each. Therefore, despite its impressive breadth and important theoretical and empirical contributions to the study of deliberative democracy, this book illustrates the broader limitations of existing empirical research to address the question of educative effects. This is true as well in the aggregated way that deliberation is conceptualized and measured by Jacobs et al. Though their survey provides excellent measures about the frequency of face-to-face organized deliberation, and this in itself is an extremely valuable contribution to the field, it is not good ground from which to explain the mechanisms by which civic effects occur because it overlooks the very important variation between design features of these processes and the need to link educative claims more directly to those features.

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anecdotal evidence of the effect of deliberative participation on internal political efficacy (Gastil and Dillard 1999; Doble et al. 1996; Smith 1999). Several systematic assessments however have not found evidence of statistically significant positive relationships between deliberative participation and internal political efficacy (Gastil 2004; Morrell 2005; Nabatchi 2007; 2010). In response to these negative findings and to social psychological theories of self-efficacy (Bandura 1997), Morrell has developed a more situation specific measure of efficacy that captures participants' assessments of their *deliberative competence* in particular and found evidence that face-to-face deliberative decision making can strengthen efficacy understood in this way (2005). As I will elaborate below, Morrell's insight illustrates a limitation in the way educative effects have been conceptualized in much of the empirical literature on deliberation. Though his approach has promise, it is far more the norm to use standard measures developed in the political behavior literature to measure deliberation's educative effects. The few efforts to capture deliberation's discrete effect on attitudes towards government have followed in this track and demonstrated statistically significant effects on external political efficacy (Nabatchi 2010), and political trust (Fishkin and Luskin 2002), which hold up over time.

1.3.2b *Civic capacities: citizens' attitudes towards others*

Assessments of deliberation's effects on participants' attitudes towards other citizens have been approached in several different ways²³ but those focused on the way participants conceptualize their interests are most responsive to classic deliberative theory's claim that deliberation will generate public spiritedness and attachment to the common good. General

²³ Some have used measures of social trust and political tolerance but in larger indices that conceal the direct effects on these attitudes specifically (Jacobs, Cook, and Delli Carpini 2009). Another indicator of citizens' attitudes towards others is captured by political empathy, a capacity theorists argue is crucial to democratic practice (Morrell 2007; Morrell 2010). Though empirical research has tentatively confirmed that this is a valuable deliberative capacity (Mutz 2002), initial tests exploring deliberation's effects on empathy have come up insignificant (Fishkin and Luskin 2002).

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measures of what has been called “sociotropism” (Kinder and Kiewiet 1981) and operationalized by the question “when voting, people should always put the interests of the public as a whole before those of themselves and their family”, have been shown to increase as a result of deliberation (Fishkin and Luskin 2002). But other efforts have focused instead on assessing the change in content of opinions for indications of greater public-spiritedness. Despite the evidence from experimental small group discussion research that gives reasons to be skeptical that deliberation can “generate empathy and diminish narrow self interest” (Mendelberg 2002, 181), quasi-experimental deliberation research does show changes in the *content* of opinions that suggest broadening of interests to encapsulate the fate of others (Fishkin 2009a, 142).

Assessments about the content of opinions and one’s understanding (or lack of understanding) of the interests that underlie those opinions is a difficult thing to access empirically. Empirical scholars have generally not theorized about this in depth,²⁴ but Mansbridge has developed an analytically helpful way to approach the content of interests empirically (Mansbridge 1983, 24-28). In particular, her case study research reminds us that there are several ways deliberation might be expected to shift participants’ understandings of their interests aside from a movement in the direction of common interests. While her field work demonstrates that shifts towards common interests can occur with positive effect, it also reminds us that such shifts are not always normatively appealing as classic deliberative theory implies. Mansbridge and her collaborators have shown that stronger attachment to

²⁴ See Neblo 2010 for an exceptional effort in this regard. He argues that reduced influence of age, gender, race, political knowledge, negative affect/prejudice, and ideology on post deliberative opinions compared to their influence on pre deliberative opinions all provide confirmation, in various ways, that deliberation has broadened participants’ conceptions of their interests. While he finds moderate support for his hypotheses, they are a questionable way of operationalizing the transformative claims of deliberative theorists. In particular the assumption that the reduced relevance of ideology on post deliberative opinions is evidence of a frame shift from private to public interests is rather curious (Neblo 2010, 4).

self or sectional group interests can be a necessary and productive outcome of deliberation (Mansbridge 1983; Karpowitz and Mansbridge 2005). Despite the richness and value provided by these few case studies, in general the empirical research remains thin with respect to deliberation's effects on participants' attitudes towards others and on their understanding of their interests in particular.

1.3.2c Civic capacities: citizens' political and civic participation

Another common way empirical research has conceptualized better citizen claims is to look for evidence of changes in participants' political behavior, specifically their participation, as a result of deliberation. Though some survey research indicates that exposure to different perspectives in informal discursive settings actually has a negative effect on rates of political participation (Mutz 2006), those who have studied the relationship in more organized deliberative settings have found the opposite. Gastil and colleagues find a relationship between the experience of jury duty and increased electoral participation (2002). Fishkin reports consistent evidence across a number of quasi-experiments suggesting a modest relationship between deliberation and standard measures of political participation including working on an election campaign, contacting government officials, donating to a political party, talking about politics, and voting (Fishkin 2009a, 143).

In their survey of the American public, Jacobs and colleagues find a similar relationship between citizens who report participation within the last year in an organized face-to-face meeting to discuss a public issue and increased levels of electoral participation (voting and campaign work) and elite contacting (boycotting a product, signing a petition, contacting an official or a media outlet about a political issue) (2009, 104-7). They also find a positive relationship between deliberation operationalized this way and forms of civic participation such as community service, community organizing and problem solving (2009,

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108-9). Though the causal link is difficult to establish with certainty and concerns about endogeneity always linger, these research designs control adequately for selection effects through random sampling, control groups, and other statistical techniques designed to disentangle the reciprocal relationships between participation in deliberation and other forms of civic and political participation. The different patterns of results between organized and informal forms of deliberation again suggest the need to attend carefully to the design and structure of the deliberative process under study and the specific mechanisms that are theorized to produce particular changes.

1.3.2d The limitations and promise of the civic capacities research

Though this research on civic capacities and political capital provides some minimal support for the educative claims of deliberative theorists and conceptualizes “better citizen” claims more faithfully than opinion quality research, in some ways it too is limited by blind spots in its categorization of these effects. This is because it tends to overlook the more radical implications of the educative claims located at the intersection of participatory and deliberative theory. Deliberative theorists have suggested that these experiences not only teach citizens to be “better” but to be better in a *different* way, to develop their deliberative and participatory capacities specifically, quite aside from simply influencing their engagement with electoral politics. This calls for a different way of conceptualizing the kinds of civic and political capacities that are desirable. In his comparative review of cross national perspectives about the attitudes and behaviors that make a “good citizen” for example, Jon Pammet includes the distinctly deliberative capacity to “try to understand the reasoning of people with other opinions” in his index (2009). But, as this review has shown, standard measures of political capital and behavior often do not capture these kinds of changes.

Attending to the most promising elements of existing research and noting those elements most conspicuously absent from it, illuminates several avenues for future study of deliberation's educative effects. For example, the notion of situation specific efficacy holds promise and merits further development. Attention to public spiritedness is directly linked to the transformative claims of deliberative theory and in its more nuanced formulation, which gives a place to self-interest, it is ripe for further empirical exploration. Attention to civic participation and community service is a promising proxy for the more radical changes embedded in deliberative theory's educative claims and though it has rarely been used, it may offer a way to capture "better citizen" effects at the behavioral level. Finally, I noted at the outset that despite the prominence of relational framing of "better citizen" claims by deliberative theorists, empirical research has focused almost exclusively on individual effects; this review has borne out that claim. Though a handful of studies have looked at the ability of deliberative processes to generate mutual understanding and acceptance of difference (Walsh 2007), for the most part "better citizen" claims framed at the level of social relations between citizens have remained the purview of theoretical speculation. This too then is an avenue in need of further empirical attention.

To sum up, the existing literature about deliberation's effects presents decidedly mixed findings about its educative potential. The implications of this mixed record however, are difficult to assess because so much of this research conceptualizes educative effects in ways that are heavily swayed by "opinion track" approaches to deliberation and leave aside the undertheorized and underscrutinized claims at the core of deliberative theory's supposed educative potential. In my presentation so far of the categories of educative effects addressed by the empirical research, I have treated as unproblematic the tendency of this literature to group a wide range of discursive processes under the heading of "deliberation"

without distinguishing between different structures and designs and their likely consequences. The conflicting empirical results however have repeatedly pointed to the need to make such differences explicit. I now turn to this in an effort to show that aside from limitations to existing empirical study of the *what* of educative effects, there are significant problems introduced by the *where* as well.

1.3.3 *Where* are deliberation's educative effects? Empirical contexts and venues

Many surveys of empirical research have noted the important differences between various ways deliberation has been conceptualized and the range of empirical contexts where it is being studied (Bachtiger et al. 2010; Neblo 2007). While some have addressed this variety by drawing a hard line between what is and what is not appropriately considered democratic deliberation (Cohen 2007; Thompson 2008), others have attempted to make sense of this variety by mapping a range of discursive forms in a wider deliberative system (Mansbridge 1999b; Hendriks 2006), or by developing typologies to distinguish between various deliberative and/or participatory processes (Fung 2006; 2007b; Morrell 2005). For social scientists interested in investigating the processes and outcomes of deliberation many options exist, but the broadest distinction is between “deliberation” organized by social scientists (experimental and quasi experimental research) and deliberation organized by “real people”.²⁵ I review each in turn and discuss the strengths and limitations of each approach

²⁵ A third category, that of naturally occurring “deliberation” (informal talk) could be added to this list. Studies of informal talk focus on the extent, quality, and effects of the more or less spontaneous political conversations occurring within already existing social networks. Most often captured through survey research (Mutz 2006; Jacobs, Cook, and Delli Carpini 2009) but also through focus groups (Perrin 2006), and participant observation (Walsh 2003; Eliasoph 1998), they are relevant to theories of deliberative democracy, most obviously through their connection to Habermasian conceptions of the public sphere (Habermas 1962) and as manifestations of the informal processes of opinion formation that precede formalized processes of will formation in his later theory (Habermas 1996). Theorists have further expanded our conceptions of informal political talk by arguing that “everyday talk” which may not have immediate political significance in terms of policy opinions, deserves a place in our conceptions of the broader “deliberative system” (Mansbridge 1999b). Though some have argued that such talk lacks the conceptual criteria necessary to be considered deliberation proper, most notably because it is not decision-oriented (Thompson 2008), others concerned with adapting normative theory to empirically falsifiable hypotheses contend that the claims of deliberative democrats once properly disaggregated

from the perspective of educative effects.²⁶ While I believe both can make important contributions to bridging the gap between the theoretical and empirical study of deliberation, I argue that with respect to educative effects especially, careful study of “real world” venues should take priority.

1.3.3a “Deliberation” organized by social scientists: experimental research

Deliberation is commonly studied through experimental research designs, which have many methodological advantages. Though some experimental researchers engage in serious concept stretching of deliberation (Bachtiger et al. 2010),²⁷ others have made a concerted effort to simulate the conditions of deliberation in the real world and/or according to the regulative ideals espoused by deliberative theorists (Morrell 2005; Neblo 2007). These experiments generally assemble participants in small groups for discussion about a public policy issue taking measures before and after and/or from a relevant control group. Because these discussions are organized for the express purposes of social science, researchers have a high capacity to organize and structure the discussion as they wish in order to isolate the effects of interest to deliberative theory. They have usually opted for fairly simple designs, with no briefing materials on the issues or moderators for the

can be fruitfully tested in this context (Mutz 2006; Mutz 2008). While empirical and normative scholars will no doubt continue to debate the operational definition of deliberation and its relationship to the normative standards articulated in the theory, settings of informal talk are not the most appropriate for exploring educative claims specifically. Given their ambitiousness, it is in contexts of more formalized deliberation, where structures are in place to support educative aims, that such claims can even begin to approach plausibility.

²⁶ Because my aim here is to review empirical research most relevant to the study of educative effects on everyday citizens, I overlook venues of elite deliberation that have also been the subject of fruitful empirical study (Steiner et al. 2004; Bessette 1997).

²⁷ For example, empirical studies have claimed to be measuring effects of deliberation through experimental settings that look nothing like any kind of actual deliberation. Experiments where participants engage in no conversation at all (McCubbins and Rodriguez 2006), or “converse” only with a survey administrator (Jackman and Sniderman 2006) are held up as tests of deliberation’s effects. Though, as I noted in fn. 25, these scholars are right to put emphasis on the importance of everyday conversations to the deliberative system, a survey instrument is a dubious simulator of this practice. Furthermore such “bare bones” treatments, while they may provide some relevant insights about the design and implementation of more complex deliberative institutions, do not themselves simulate conditions appropriate to the generation of educative effects.

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discussion, in order to maintain experimental parsimony and to be able to confidently isolate the effects of the experiment to a discrete treatment. They have however used multi-experimental designs for comparative leverage to measure the importance of discussion topic, discussion structure, and decision procedure.

While these designs include the group dynamic and decision orientation necessary to approximate organized deliberation in the real world, they also lack some important features. First, participants are often drawn disproportionately or entirely from the college student population raising questions about the generalizability of findings. More importantly, the discussions often have no significant consequences for participants and this is likely to alter the way participants engage with the process in ways that are important for its outcomes. While efforts have been made to simulate real stakes for participants as much as possible, there are clearly limits on how well experimental conditions can replicate real world conditions. As I will argue below, the presence of “real stakes” for participants is likely to matter in particular for educative claims, and therefore experimental research assessing educative effects ought to, at the very least, be coupled with study of real world deliberation.²⁸

Some social scientists have organized deliberation in a quasi-experimental format, attempting to get the best of both worlds by maximizing their capacity to control various conditions while also observing deliberation in the “real world”. Fishkin and his collaborators are the most notable example of this approach having pioneered and trademarked their unique Deliberative Poll design. The design, in Fishkin’s words is as follows:

²⁸ To be sure deliberation is not guaranteed to be high stakes simply because it is occurring in the real world. However real world settings of deliberation at least provide the potential for such stakes to be present.

Take a random sample of the electorate and transport those people from all over the country to a single place. Immerse the sample in the issues, with carefully balanced briefing materials, with intensive discussion in small groups, and with the chance to question competing experts and politicians. At the end of several days of working through the issues face to face, poll the participants in detail. The resulting survey offers a representation of the considered judgments of the public- the views the entire country would come to if it had the same experience. (Fishkin 1995, 162)²⁹

The methodological benefits of the Deliberative Poll are numerous. Aside from the characteristics they share with all experimental designs, the ability to collect pre/post data on a variety of measures, to assemble a relevant control group and to manipulate the treatment design, Deliberative Polls use random sampling to select participants and have been quite successful at attracting samples that are representative of the relevant population (most often the British or American public). While random sampling allows Fishkin to avoid selection biases in his results, some have criticized the design for its failure to simulate naturally occurring deliberation. But oriented to the opinion track, Fishkin is concerned with capturing a measure of “considered public opinion”. He therefore designs Deliberative Polls as intentionally counterfactual experiments and is not troubled by accusations that they do not replicate typical deliberative conditions. Indeed, like other deliberative researchers, Fishkin seeks to simulate “ideal deliberative conditions” and show how outcomes differ in such cases from other instances of political talk and or participation.³⁰ Although the dual motive of experimental research and democratic reform proposal produces problems in isolating the effects of a complex and multifaceted treatment, more complex design and measurement procedures might in the future be able to overcome some of those difficulties (see Farrar et al. 2010 for an initial foray). The more important limitation, from the

²⁹ As cited in Fung (2007b, 172).

³⁰ Much of the impasse between normative and empirical scholars of deliberation is related to this issue and the tension between the desire to observe deliberation that approaches the “ideal” vs. the desire to observe “deliberation” as it occurs naturally (see Thompson 2008; Mutz 2008; Neblo 2007).

perspective of educative effects, is shared by many in the next category of “real world” deliberation and it concerns the way in which “ideal conditions” are understood and implemented. As I elaborate below, such considerations reveal the multiple purposes, aside from social science motives, for organizing deliberative venues, the important process and design variations that accompany them, and the implications those have for studying educative effects.

1.3.3b Deliberation organized by “real people”

Observers have noted the growing presence of a “public deliberation movement” (Jacobs, Cook, and Delli Carpini 2009; Gastil and Keith 2005; Lee 2008) in recent decades consisting of numerous organizations that routinely design and implement deliberative venues throughout the United States and in a number of other advanced democracies. These venues, in combination with long standing participatory deliberative institutions like juries and the New England Town Meeting, as well as those established more recently by governments and agencies experimenting with avenues for wider citizen participation, provide a wide range of possibilities for the study of real world organized deliberation among citizens. Despite the methodological challenges associated with this enterprise, it is imperative that empirical study of deliberation attend to these real world contexts as they are likely to be fruitful settings to assess the claims of deliberative theory (Levine, Fung, and Gastil 2005). Though they all share basic features in common (everyday citizens in face-to-face discussions about matters of shared concern), they exist for a number of different purposes and take many different forms, which no doubt have serious implications for the outcomes they can be expected to produce. Efforts to categorize and typologize these various processes reveal that those receiving the greatest empirical attention in the literature are not best suited to generate educative effects. On the other hand, those venues that do

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present more appropriate settings to explore educative claims have not often been studied with these questions in mind nor has much careful thought been given to categorizing these venues in ways that help identify the mechanisms theorized to produce educative effects.

Most attempts to categorize and typologize the participatory deliberative field identify a number of missions, goals, or purposes that are articulated by organizers and practitioners (Fung 2007b; Ryfe 2002; Button and Mattson 1999; Gastil 2000). Presumably any effort to measure outcomes should attend to the intended purpose(s) of the process from the organizers' perspective. Not surprisingly given the non-instrumental nature of educative claims, these are rarely if ever identified as a primary goal of these processes. Terminology in this case, as is so often the case in this field, may be confusing. Much discussion has focused on the extent to which deliberative forums have influence on public policy, and efforts to categorize them often turn heavily on this variable. The fact that many deliberative forums take place without any direct connections to the policy process has caused several observers to categorize them as "educative forums" that are focused exclusively on the goal of educating citizens. But a closer look reveals that "educative" is used here to refer primarily to information gains and opinion change instead of a wider set of democratic skills and dispositions (Fung 2007b; Button and Mattson 1999). Though some have included the cultivation of "civic habits" within their descriptions of these "educative forums", they continue to conflate these categories with measures of opinion quality (Gastil 2000; Ryfe 2002).

But presenting educative goals in this way, as the low end on a "policy impact" spectrum is misleading. Not only does it incorrectly reduce or conflate educative effects with opinion quality, it also produces a typology of deliberative venues based on a variable of little consequence from the perspective of educative claims. This variable is especially

problematic because many deliberative organizations have shifted over time to place increasing emphasis on their capacity to influence policy decisions in response to criticism that they are “just talk,” making such categorizations open to contestation (Polleta 2008). Take for example the account offered by the non-profit Everyday Democracy (formerly the Study Circles Resource Center) about “how our work has grown”:

In the early years, we focused on developing a better kind of public dialogue, drawing on the ways people talk in their everyday lives. Then, we championed the idea that public talk is for *everyone*, and helped communities organize to bring all kinds of people into the conversation. Now we’re helping people connect public dialogue to real solutions.³¹

A related but clearer variable from the perspective of educative claims is whether or not participants are asked to reach a collective decision (Morrell 2005). The psychological conditions produced by such parameters, particularly when it is binding on the group members in some meaningful way, are the ones conducive to educative effects on deliberative skills and dispositions.³² Yet much of the empirical research of deliberation is not focused on venues of deliberative decision making. In fact, much of the research cited above is based on the study of deliberative venues that seek to explicitly eliminate the process of face-to-face collective decision making in order to keep measures of “considered public opinion” pure from the social pressures associated with face-to-face dynamics (Fishkin 1995, 185; Fishkin 2009a, 88, 133). Although Fishkin has been most explicit about this intention in his Deliberative Poll design, many other deliberative forums are designed to conclude without a face-to-face collective decision being reached. The forums organized by *AmericaSpeaks* (e.g. Americans Discuss Social Security), and supported by the Kettering

³¹ <http://www.everyday-democracy.org//en/Page.AboutUs.aspx>, last accessed March 20, 2011.

³² Much argument has ensued over the definition of democratic deliberation and whether or not it requires an instance of collective decision making, need merely to be “decision oriented” or can be any form of discussion about shared concerns. Chambers has made the important insight that though the presence of a decision is not a definitional constraint, it will alter the psychological conditions of the deliberative experience and is therefore relevant to the outcomes that might be expected to follow (2009).

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Foundation (National Issues Forum), and Paul J. Aicher Foundation (formerly the Topsfield Foundation, e.g. Everyday Democracy) are all examples. Though some, like the Citizen Juries process pioneered by Ned Crosby, do conclude with a face-to-face collective decision, the outcomes have not had meaningful consequences for the participants or anyone else for that matter (Crosby and Nethercut 2005, 115). Despite the absence of this important condition, these venues are those most frequently discussed in the empirical literature. These processes have important design variations in their own right and the highly decentralized implementation structure in some cases is bound to produce even more diversity.³³ Yet they are alike because they all lack a group decision that is binding in some meaningful way on the participants.

This may be for good reason. It is certainly not clear that a small group of citizens, no matter how representative they may be of the general population, and no matter how informed or considered their judgments have become, should legitimately be authorized to make binding decisions on behalf of their fellow citizens (Fung 2007b, 165). Furthermore, there is good reason to be wary about the legitimacy of group decisions made in face-to-face settings even when the group members are representing themselves only. Jane Mansbridge most famously observed the tensions between unitary and adversary modes of democracy and the different purposes that face-to-face decision making can serve in these different contexts (1983). Indeed she stressed that, in contexts of conflict, face-to-face collective decision making can be a very risky business. Consistent with the insights of her now classic study, a more recent empirical review concludes that:

³³ See for example Walsh (2007) for the compelling argument that civic dialogue programs on the topic of race and race relations, like those convened with the assistance of Everyday Democracy (Study Circles Resource Center) comprise a unique category of “public talk” initiatives that are different from other deliberative forums because they are not oriented towards decision making.

More than anything, the point to emerge from existing research is that the conditions of deliberation can matter a great deal to its success. ... Other times, deliberation is likely to fail. This outcome is especially likely when strong social pressures or identities exist, conflict is deep, and the matter at hand centers on values rather than facts.

(Mendelberg 2002, 181)

But this misses the very conditions that deliberative theory emerged to address (deep conflicts over values) and filters out the conditions central to the participatory theories that generated educative claims in the first place. Focusing on deliberative processes that avoid the occasion for face-to-face collective decision making and are dedicated to different purposes, as much empirical research has done, means that when educative effects are studied, the findings are not well grounded in these original theories and are therefore not particularly illuminating tests of them.

The methodological challenges of capturing the subtle psychological processes associated with educative claims and isolating them to causal mechanisms connected with deliberative experiences (Mansbridge 1999a), provide good reasons for looking in contexts where the conditions are theoretically most favorable to producing such changes. If such changes are not found in these contexts, where the conditions seem most favorable, then we must remain quite skeptical that they could occur anywhere. Alternately, if such changes *are* found here, these settings are best suited to teach us about the causal mechanisms that make them possible. Though some have argued that the “blunt instruments of social science” make it more fruitful to study this question in experimental settings (Mansbridge 1999a, 291), I argue that the study of real world contexts is needed, at the very least to complement experimental research, because of the difficulties of simulating collective decision making

experiences that have meaningful consequences for participants through experimental design.³⁴

Fortunately, there are many deliberative venues where face-to-face collective decision making is central to the process design and they have been the object of some empirical study. Some research focuses on well established participatory deliberative institutions like juries (Gastil, Deess, and Weiser 2002; Gastil 2008) and the New England Town Hall Meeting (Mansbridge 1983; Bryan 2004). A more recent body of research focuses on recent instances of “empowered participatory governance” (Fung and Wright 2003) like, for example, participatory budgeting in Porto Alegre (Baiocchi 2001) and community policing in Chicago (Fung 2004). Citizens Assemblies in British Columbia and Ontario, Canada that have been temporarily convened and given the power to determine referendum options concerning electoral reform have also garnered significant attention (Warren and Pearse 2008; Rose 2009). But research on these venues has rarely focused systematically on the question of educative effects. Furthermore, this review has aimed to show that little attention has been given to categorizing deliberative venues in ways that help identify the conditions expected to produce educative effects. My preliminary account here suggests that face-to-face and binding collective decision making is an important condition but this has clearly been too blunt a measure for sorting through the wide range of processes that currently exist. With the exception of the efforts of Archon Fung (Fung 2007b), I am aware of no attempts to develop typologies that are, at least in part, intended to clarify the educative potential of different deliberative venues.³⁵ Such an effort is necessary, as I hope

³⁴ For a reasonable attempt to overcome this limitation of experimental design see (Morrell 2005).

³⁵ For another quite sophisticated effort to typologize public engagement mechanisms see Rowe and Frewer (2005). They define effectiveness narrowly in terms of “information flow” and as a result their typology sheds little direct light on the mechanisms most likely to produce educative effects that go beyond the exchange and processing of information.

to have shown by this review, to advance our empirical understanding of this under scrutinized but frequently mentioned normative justification for participatory deliberative processes.

To sum up, much of the mixed findings concerning deliberation's educative effects can be explained by the wide variety of contexts and venues that are being studied and compared. I have argued that real world deliberative venues ought to take a central focus in the growing empirical research agenda. This is particularly important for the study of deliberation's educative effects because the conditions expected to generate high educative potential are not easy to simulate through experimental design. Real world deliberative venues however exist in numerous forms, many of which are not ideal for the exploration of educative effects because they also lack real stakes for participants. I suggest that to the extent that the existing empirical literature does focus on real world venues, it most often does so in contexts that are not best suited to generate educative effects. Given the methodological challenges of isolating deliberation's educative effects, which have been noted previously (Mansbridge 1999a), contexts believed to have high educative potential should take priority. This requires a mapping of the deliberative field with these effects, and the process design features most conducive to them, in mind.

1.4 CONCLUSION

For centuries democratic theorists have claimed that democratic participation is a developmental experience with the potential to cultivate desirable skills and dispositions among citizens. In the contemporary period, these "better citizen" claims have been most frequently advanced by advocates of participatory and deliberative democracy and have formed a reoccurring justification for why reform of existing democratic institutions ought to incorporate more deliberative participation from citizens. These claims vie for priority

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with more instrumental “better decision” claims and, particularly in the theories of deliberative democracy that have been developed in recent decades, are often overshadowed by them. As a result, though the assumption of deliberation’s educative potential is widely shared, it is theoretically and empirically underscrutinized. This is particularly problematic given the “heavy lifting”, undercover as it may sometimes be, that such assumptions perform in the normative justifications offered by the theorists and practitioners of deliberation.

Though a growing empirical literature aims to investigate deliberative theory, its attention to “better citizen” claims is hampered by several limitations. First, the conceptualization of educative effects has been heavily influenced by an opinion quality approach that fails to investigate the deeper set of transformative assumptions embedded in the theory. Second, the enormous variety of deliberative venues and empirical contexts in which the question has been examined, without careful attention to variations in their process design and structure, make generalizations about deliberation’s educative potential difficult. As a result, though evidence exists to support the contention that deliberation can improve opinion quality and strengthen civic capacities in some cases, these effects are not well connected to the normative theories from which better citizen claims originate. As a result, skeptics remain unconvinced by better citizen claims and advocates have little ground upon which to account for when, how, and why such potential can be realized.

I have argued that these limitations can be addressed in two ways that can help to bridge the normative/empirical divide that currently exists within the field of deliberative democracy research and replace optimistic assumptions with empirically grounded insights about the educative potential that can realistically be attributed to deliberative processes. First, a set of analytical categories for describing and parsing the core educative claims made about participatory deliberative processes is needed, and these categories must be linked

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directly to the concerns of normative theorists who make better citizens claims. Second, a map of the deliberative field is needed that pays attention to the differences between various deliberative processes and the importance of those differences for educative claims specifically in order to locate the most appropriate real-world contexts for exploring educative claims empirically. I proceed with these two steps in Chapter 2.

Chapter 2

The Educative Potential of Community Mediation Case Selection, Methods, and Field Sites

2.1 INTRODUCTION

In the last chapter I argued that educative claims, though widely present, are under specified and under examined normative justifications for both participatory and deliberative theories of democracy. I showed that this is one reason why so much empirical deliberation research mischaracterizes these effects, focusing instead on related but different purposes.³⁶ In both cases, the difficulty arises in part from the non-instrumental nature of “better citizen” claims and the fact that they vie for primacy with “better decision” claims in both the theoretical and practical spheres. Educative assumptions are therefore in need of greater analytical and empirical attention that aims to bridge the frequently observed gap between normative theory and social science in this area of study in ways that can advance our understanding of the educative potential of deliberation.

I argue that two things can advance us in this direction. First, as the review in the preceding chapter has shown, we need greater analytical clarity concerning “better citizen” claims. Below I draw on participatory theory to respond to this need by proposing that educative claims can be productively parsed into the three categories of *efficacy*, *interests*, and *relationships*. Second, I argue that a map of the deliberative field based on the conditions that matter most for educative potential is needed to select suitable empirical contexts for study.

Categorizing deliberative venues according to the three conditions of *collective decisions*, *scope*,

³⁶ Another reason for this may be the extent to which these effects are normatively laden making them difficult to operationalize in terms conducive to positivist social science. The educative assumptions of participatory and deliberative democrats are grounded in particular commitments about the way “better citizens” *should* think and act. These sorts of normative commitments are problematic for empirical scholars who, though often motivated by normative concerns, wish to insulate their study of political phenomena from explicit normative agendas.

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and *intensity*, I draw attention to those where educative claims are most compelling. I argue that educative effects are most likely in participatory deliberative venues where collective decisions are binding and made through face-to-face procedures that increase deliberative engagement between participants, where the scope of the subject matter is highly localized and/or personalized such that participants are highly invested, and where the participation itself is intense because the number of participants is small and the process is sustained. With this clearer articulation of educative outcomes and a map to organize the field, I turn to identify a suitable real world context in which to explore them empirically. I identify community mediation as an often overlooked but highly suitable participatory deliberative venue to explore these claims. In the remainder of the chapter I introduce community mediation, the methods I employ to study it, and the context in which I study it.

2.2 CATEGORIES OF EDUCATIVE EFFECTS: EFFICACY, INTERESTS, RELATIONSHIPS

Long before the “deliberative turn” in political theory and its subsequent equivalent in empirical political science, participatory democrats, as I noted from the outset, made explicit claims about the educative power of face-to-face discursive processes of collective decision making.³⁷ I argue that three general categories of educative effects can be discerned in their work, that these categories resonate with the assumptions of deliberative democrats, and that they provide an analytically useful starting point for theoretically grounded empirical study of the educative potential of participatory deliberative processes. In the previous chapter, I noted that educative claims have been articulated at both the individual level and the social level. The former describes changes to the attitudes and behaviors of citizens and the latter describes changes to the social dynamics between citizens. I showed that though changes in social relations are consistently articulated by theorists, they are rarely taken up in

³⁷ See Mansbridge (1999a) for the argument that the waning of the participatory democracy movement is in part a result of the lack of reliable empirical evidence of its “better citizen” claims.

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empirical research. This underscores the need for a set of analytical categories that encompass the full range of claims, at both levels. The three categories I identify, *efficacy*, *interests*, and *relationships*, address this need.

The first category, *efficacy*, encompasses individual level changes to participants' subjective sense of their deliberative competence as well as their objective competence, understood as the acquisition and refinement of their deliberative skills. The second category, *interests*, includes changes to participants' understandings of their own and others' needs and desires. Interest claims also suggest that deliberation can change general dispositions towards these needs and desires and the extent to which they are self or other regarding. The interests category straddles the individual and social levels. While it is an individual level effect it also concerns the way individuals relate to each other and in particular how they understand and relate to the interests of others, as they come to understand them through deliberation. The final category, *relationships*, comprises changes at the social level to participants' dynamics of interaction with each other and other citizens, and their effect on the nature of relevant political community or communities. I elaborate briefly on each category below.

Democratic theorists positing participation's developmental effects as far back as Mill have expected impacts on participants' psychological dispositions and agency to follow from participation. This was most clearly articulated in terms of *efficacy* by Carole Pateman in her classic work on participatory democracy (Pateman 1970). Drawing on empirical research in social psychology and political sociology, Pateman argues that participation leaves individuals more psychologically equipped to undertake further participation (1970, 45). Social psychological theories suggest that one key source of self-efficacy beliefs are "enactive mastery experiences" or instances where individuals experience themselves as capable of

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select tasks (Bandura 1997, 79). This is consistent with the expectation that participatory experiences can increase self-efficacy beliefs. But, as Morrell has noted, social psychological theory suggests that self-efficacy is a context specific phenomenon (2005). He has argued convincingly that the universal measure of political efficacy used by many political scientists does not capture the more context specific concept of “deliberative competence.” Therefore the kind of efficacy effects that should be expected to follow more directly from participatory deliberative experiences must relate to the capacities required for face-to-face discursive, and sometimes conflictual, interactions. Aside from influencing individuals’ subjective judgments of their own competence, participatory democrats also stress objective changes in terms of skills acquisition and development. Frequent references are made to “democratic skills” as an area of development resulting from deliberative participation though these are rarely specified or detailed. They too need to be refined within particular deliberative contexts (see Chapter 3), but generally they refer to the communication and problem solving skills that are practiced directly in participatory deliberative settings.

Turning to *interests*, these claims also have a long history, which Mansbridge has traced back to Mill, Tocqueville and Dewey (Mansbridge 1999a). The expectation, shared by many contemporary deliberative theorists, has been that participatory deliberative processes help participants to clarify their interests by attuning them to those they share in common with others. This broadening of interests is equated with a greater “public-spiritedness” among citizens and often described as a concern for the common good. This means both that citizens come to understand their interests with respect to the issue at hand in more other-regarding ways, *and* that they develop a general disposition to keep doing so in future. But drawing on other participatory theorists sensitive to power inequalities (Bachrach 1975), Mansbridge claims that a process of collective decision making that attunes participants to

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their selfish interests is also possible and valuable, even if those conflict with the interests of others. Gaining a clearer understanding of conflicting interests is especially important for citizens who are harmed when the interests of the most powerful are misrepresented as the common interests of all. This clarification process, whether it makes common or conflicting interests more salient, and whether it cultivates a disposition of public spiritedness or opposition will equip citizens to be better representatives of their own “enlightened preferences” understood as the things they “would prefer if they had access to all information including information about the others involved” (Mansbridge 2006, 108) and what they would choose “if they had had a chance to live out the consequences of each choice before actually making a decision” (Mansbridge 1983, 25).

Benjamin Barber’s participatory treatise elaborates most explicitly on the way participatory deliberative processes, or in his terms occasions for “strong democratic talk”, are expected to have lasting impacts on the *relationships* between citizens (Barber 2004). Strong democratic talk according to Barber enables citizens to explore mutuality and establish affiliation and affection (2004, 182-90). He argues that they can generate relations between citizens that are situated in the middle ground between friends and strangers, suggesting they should be described by the metaphor of neighbors. The civic bond between these “citizen-neighbors” is grounded in empathy and mutual respect which he argues can both be strengthened and reinforced through the affective dynamics of participatory deliberative processes. In articulating this potential to generate a political community that balances the tensions between unity and autonomy, Barber’s claims resonate with the aspirations of deliberative democrats to improve the social relations between citizens under circumstances of deep pluralism (Rosenberg 2007a).

These three general categories provide a way of conceptualizing “better citizen” claims that are grounded in the normative theories of both participatory and deliberative democrats, and parsed in an analytically useful way for the purposes of empirical investigation. To clarify, my intention in parsing educative effects into the categories of efficacy, interests, and relationships and treating them separately in the next three chapters is for analytical purposes; it is not to suggest that they are entirely independent of each other. In the overall summary of educative effects provided in Chapter 6, I will discuss the evidence concerning their interdependence further. At this point, and in the analysis presented in Chapters 3, 4, and 5, I treat them as distinct in order to artificially simplify the empirical task ahead. In addition, the general categories are presented here with minimal specification. I have suggested above that details need to be clarified as they pertain to particular deliberative contexts. After introducing community mediation as the empirical case for this study, I will turn to each category in more depth in Chapters 3, 4, and 5 and provide this contextualized account for each category. First, I present a set of continuums that help to locate the kinds of participatory deliberative venues where the educative processes outlined above are most likely to occur.

2.3 MAPPING THE DELIBERATIVE FIELD FOR EDUCATIVE PURPOSES

Given the tremendous variety within the ever expanding deliberative field, what kind of participatory deliberative processes are best suited to generate educative effects understood in terms of the categories outlined above? Archon Fung has generated several helpful typologies of the deliberative field (Fung 2006; 2007b; 2007a), with a variety of theoretical and practical concerns in mind. In his most comprehensive typology he notes that “participatory democrats have long claimed that deliberative arenas function as schools of democracy” and that “the extent to which participation imbues democratic skills and

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habits has received far more conceptual attention than empirical scrutiny” (2007b, 169). His typology suggests various hypotheses about the likely outcomes of various deliberative processes, and with respect to educative effects he stresses that such impacts are most likely to occur where deliberation has “tangible consequences” for participants because this will generate the “psychic energy” necessary to produce them (169, 165). He articulates this in terms of “stakes”, a combination of the scope and nature of the subject under discussion and the extent of participant empowerment. He also argues that the amount of participation (which he conceptualizes in terms of recurrence) will matter for the educative potential. Though Fung presents brief case studies to support his claims, in keeping with the general trend I have identified so far (and by Fung himself as well), the empirical evidence to support them is notably thin. Nevertheless, the intuitive insights he makes are compelling and provide guidance to empirical scholars seeking to investigate these questions more systematically. I expand on his insights to present a set of continuums, along which deliberative venues vary, that I argue are most likely to matter for their educative potential.

I have noted from the outset that educative claims are most theoretically compelling for processes that are both participatory and deliberative, meaning they involve everyday citizens in a discursive exchange about shared concerns. In the previous chapter, I also identified the presence of a face-to-face and binding *collective decision* as a condition that matters for educative expectations. This is because, as Fung notes, these factors alter the psychological conditions of the participatory deliberative experience in ways that are predicted to engage participants in the manner needed for educative expectations to be realized. Rather than continuing to rely on this blunt binary, however, I disaggregate this into two continuums, which can be visualized as the axes of a two dimensional space (see Figure 2.1). The vertical axis represents the “face-to-face” continuum, which distinguishes

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between various collective decision making procedures. At one extreme I place anonymous procedures such as ballot voting, in the mid-range I place less anonymous procedures such as voice voting, and at the opposite extreme are face-to-face consensus based decision making procedures (not anonymous). Deliberative polls (Fishkin 2009a) and the Citizens' Assemblies in British Columbia and Ontario (Warren and Pearse 2008) are examples of venues where secret ballot voting is used for final decisions. Citizen juries (Crosby and Nethercut 2005) and the New England Town Hall Meeting (Mansbridge 1983; Bryan 2004) are examples of venues where decisions are made, whenever possible, through face-to-face procedures.³⁸ It is the processes that are located towards the high end of the face-to-face continuum (consensus) that are more likely to generate educative effects because they maximize the need for engagement between participants.

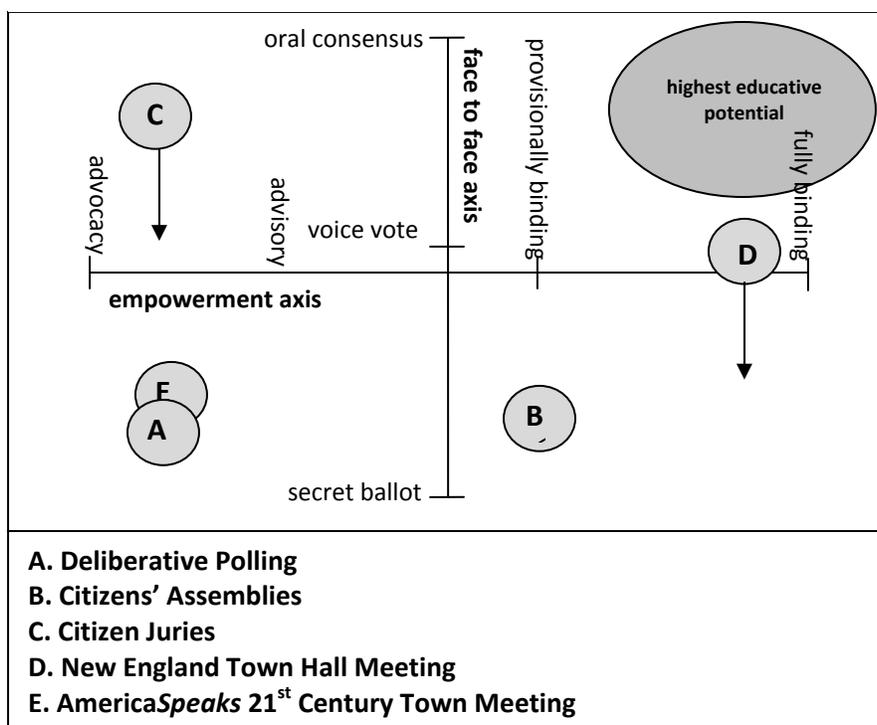
The horizontal axis represents the “empowerment” continuum which charts the extent to which decisions are likely to have meaningful consequences for the participants (in other words their “bindingness”). At one extreme are processes that are not binding. In these contexts, participants and observers can only lobby or advocate for the wisdom of their decisions to those with direct authority. In the mid-range are advisory decisions where those with direct authority have pledged to take the decisions of the deliberation under advisement but are not actually bound to do so. Deliberative polls, Citizen juries and many other initiatives of the public deliberation movement are located between advocacy and advisory on this axis. There are also provisionally binding decisions, for example those of the British Columbia and Ontario Citizens' Assemblies that determine referendum options but whose decisions do not take effect beyond that unless they are endorsed by a super-

³⁸ As the arrows in Figure 2.1 are intended to indicate, secret ballot procedures are used in these venues as well, particularly when disagreements persist. The default decision procedure, however, is face-to-face oriented.

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majority of the voting public.³⁹ Finally, at the opposite extreme there are fully binding decisions where the participants make decisions that are going to have direct and meaningful consequences on themselves and others.⁴⁰ The New England Town Hall Meeting is an example of this level of empowerment. Again, it is towards this end of the spectrum that educative effects are more likely because they raise the stakes in ways that can be expected to generate deeper and more committed engagement with the process.

Figure 2.1: Collective Decisions



³⁹ In both cases the recommendations of the Citizens' Assemblies were not endorsed by the required percentage of the voting public (Rose 2009).

⁴⁰ It is worth noting that one deliberative venue which has often taken the focus of empirical deliberation research- the jury, is difficult to situate on this axis. Though jury decisions are binding, their consequences are not particularly meaningful for the deliberators themselves and in this sense jury deliberations are somewhat of an anomaly. We might say that in some indirect sense jury decisions are binding upon all citizens of a polity- in that they represent the implementation of laws to which all are bound. They are however a fairly unique form of collective decision making when compared to most deliberative venues because they are concerned with rendering *judgment* on the actions of others that will have more immediate and meaningful consequences for those others than for the deliberators themselves. In the terms developed by Richard Primus, instead of thinking of them as institutions of self-government, we should consider them institutions of "other-government" (1996). This makes them difficult to situate on the collective decision axis as I have presented it here, but it also clarifies that they are not likely to generate the same kind of investment on the part of participants as deliberative venues that do have more immediate consequences for the deliberators themselves thus reducing their educative potential (see also Leib 2005, 89-115).

It is not always appropriate for participatory deliberative processes to be empowered and this reminds us that deliberative venues also vary in terms of the *scope* of the issue being discussed. The scope of the issue, which can range from matters of global policy to the personal affairs of very few people, is not simply relevant because of its likely relationship to “bindingness”. It can also have its own independent influence on the extent to which participants are engaged with the deliberative process. All other things being equal, the more the issues under discussion touch on the immediate everyday lives of participants the more they are likely to care about the process and engage in ways that generate educative potential. This suggests that educative effects are more likely in settings where issues under discussions are smaller in scale, more localized, and more personal.

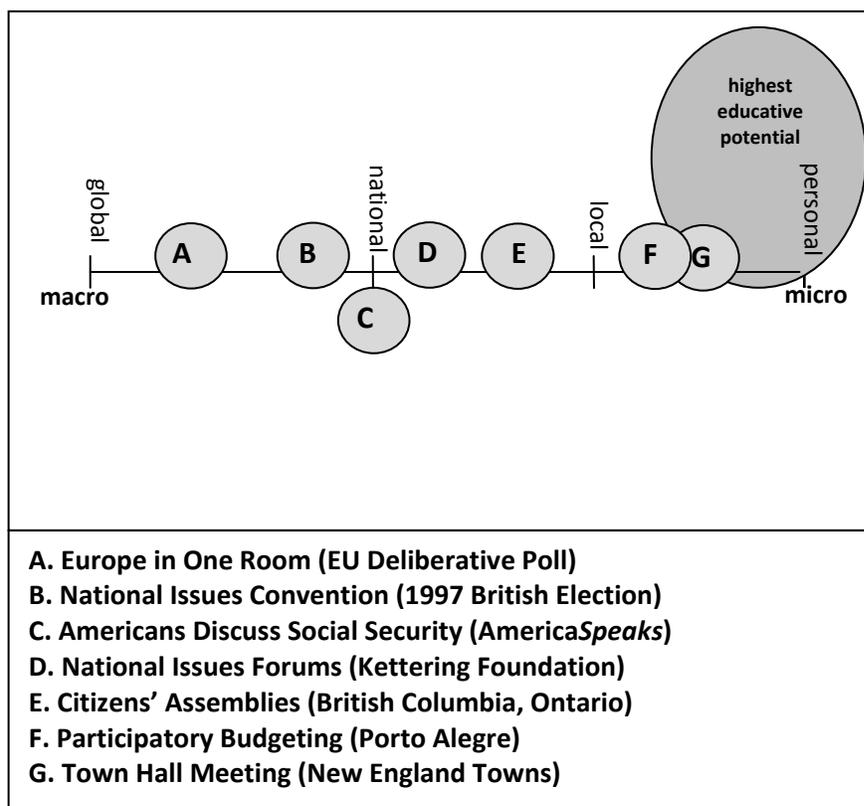
For reasons already discussed, much of the deliberation research agenda has been focused on venues with policy relevance whether it be at international, national or local levels. This is clear from the exemplary venues located on the scope spectrum in Figure 2.2. The Deliberative Poll “Europe in One Room” (Fishkin 2009a), is an example of supranational scope, while its national prototype the National Issues Convention on the British Election (Luskin et al. 1999), the Americans Discuss Social Security convened by *AmericSpeaks* (Lukensmeyer, Goldman, and Brigham 2005; Barabas 2004), and the National Issues Forums convened by Kettering Foundation on topics of national concern (Melville, Willingham, and Dedrick 2005),⁴¹ are examples of national scope. Participatory budgeting in Porto Alegre (Baiocchi 2001) and the Town Hall Meetings throughout New England (Mansbridge 1983; Bryan 2004) are local in scope. An explicit concern with the educative potential of face-to-face deliberation however, need not confine itself to matters of policy.

⁴¹ National Issue Forums (NIF) has a grassroots organization structure and as result the Forums, though starting with issues of national concern such as abortion, education, and health care, are often tailored to community context. For this reason I locate the NIF between the national and local points on the scope spectrum.

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Semi-private settings and content can also take the focus of deliberative processes, like workplace or organizational decision making, and neighborhood or family dispute management. In fact, these issues may provide the best ground upon which to explore educative claims because they are “closest to home” for participants and therefore likely to prompt the high level of psychic engagement needed to generate educative effects.

Figure 2.2: Scope



A final variable expected to matter for “better citizen” claims is the *intensity* of the deliberative experience. Intensity varies according to the length of the process and the number of participants. The longer the process and the fewer the participants, the more any particular individual will speak and be spoken to by fellow participants, provided there are facilitating structures to encourage relatively equal participation. The smaller the number of the participants, all other things being equal, the more intense we can expect the deliberative

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experience to be because as the numbers decrease the active participation of each member will increase.

In terms of the length of the process, I confine my notion of deliberative venues in this discussion to those containing a clear beginning, middle and end. Though the cumulative impacts of repeated, open ended, and ongoing deliberation across a lifetime are surely important to the educative claims advanced by theorists, they make it difficult to isolate the causal mechanisms at play empirically. Furthermore, even in instances of temporally contained deliberation, length can be understood in terms of both duration and recurrence. In the former case, the total amount of time spent deliberating is the relevant variable, while in the latter, repetition of meetings over time is most important. Fung stresses recurrence, and to be sure deliberative venues that convene the same participants in iterated interaction can be expected to have more pronounced educative effects due to the increased opportunities for development and practice (2007b, 169).

To some extent, however, the same methodological difficulties that make ongoing open ended deliberation complicated to study also apply to iterative deliberative experiences. Though it makes sense to expect its educative potential to increase, the more drawn out the process becomes, the more difficult it becomes to isolate any observed effects to that process. For this reason, I focus on instances of deliberation that can be more or less described as “single instance”. Though they may still involve multiple meetings or episodes, they must involve consistent participation of the same people and be convened within a relatively short span in order for potential educative effects to be convincingly isolated to the deliberative experience. Such effects may indeed be small, but they are assumed to be related to the more long term cumulative changes expected of repeated experiences. For these reasons, I conceptualize length in terms of duration. All things being equal the longer a

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participatory deliberative processes lasts, the more intense it is likely to be and this is expected to increase its educative potential.

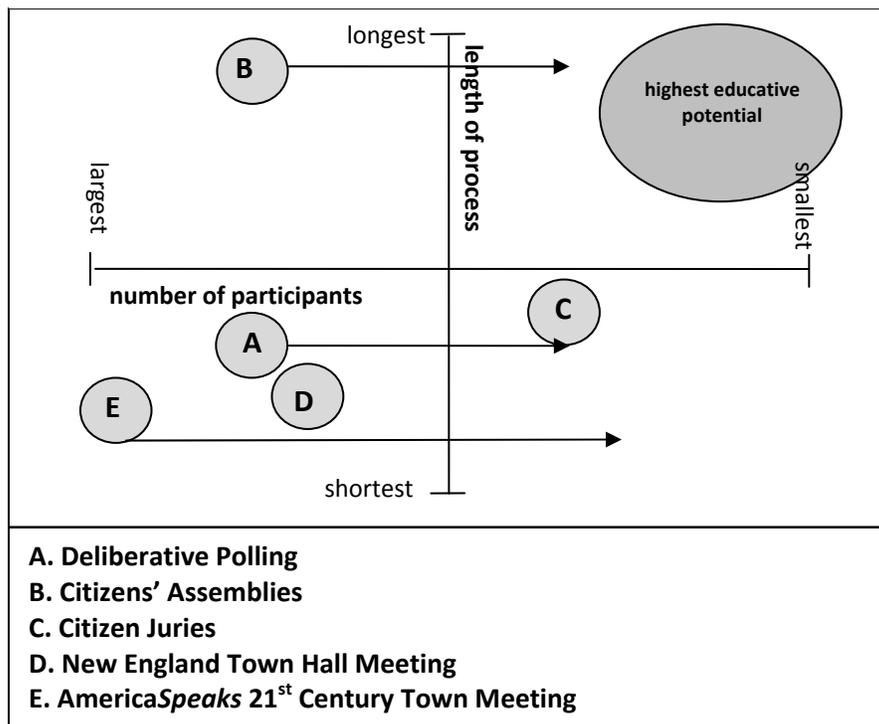
Deliberative venues can be difficult to characterize in terms of intensity because the number of participants is sometimes a fluid figure. It is relatively straightforward for processes like the New England Town Hall Meeting, or Citizen's Juries where participants usually deliberate in the full group the entire time. In the former case attendance varies in different towns but on average it is about 100 people.⁴² In such a large group the majority of participants remain silent leaving the bulk of the participation to few.⁴³ Citizen Juries assemble a much smaller number of participants (12-15 people) for a relatively more intense experience. In contrast to this, venues like Deliberative Polls and Citizens' Assemblies assemble over 100 participants but dedicate part of the time to small group discussions. In a similar but even more ambitious design, the 21st Century Town Hall Meeting convenes between 500-5000 participants, but they spend most of their time in small groups of about 10. This is represented in Figure 2.3 with arrows that symbolize the fluidity of participant numbers in these examples. With respect to duration deliberative venues may last a few hours over the course of one day like the New England Town Hall meeting process,⁴⁴ or over several days like Citizens juries and Deliberative polls. In contrast, the British Columbia Citizens' Assemblies met for twelve weekends over the course of ten months, exceeding by far the duration of most deliberative venues.

⁴² Mansbridge reports 90 in attendance at the 1970 "Selby" Town Hall meeting (1983). Bryan's longitudinal study of 1435 town hall meetings in Vermont finds mean attendance to be 114 and median attendance to be 107 (2004, 64). Bryan also makes the additional point that a more important figure, for the context of the town hall meeting, is the proportion of registered voters in attendance which averages 20.5% with a sample ranging from 1 to 72.3% (65).

⁴³ Mansbridge reports that between 30-50% of participants at the 1970 Selby Town Hall meeting spoke during the meeting (Mansbridge 1983, 49).

⁴⁴ The New England Town Hall meeting is of course an annual event but from year to year the participants will differ. Therefore, for the questions of interest here they are best characterized according to a single meeting.

Figure 2.3: Intensity



The result of this mapping suggests that we turn our attention to participatory deliberative venues where collective decisions are binding and made through face-to-face procedures to increase deliberative engagement between participants, where the scope of the subject matter is highly localized and/or personalized such that participants are highly invested, and where the participation itself is intense because the number of participants is small and the process is relatively sustained. This points in the direction of venues we may not have expected, and that are not often the focus of political scientists.

Some scholars convinced of the educative potential of participatory deliberative processes but stymied by the difficulty of demonstrating them with the “blunt instruments of social science” have suggested that efforts to explore these questions empirically must be conducted in experimental settings where pre/post and control group design can convincingly isolate the effects to a participatory deliberative “treatment” (Mansbridge 1999a,

291). Yet the elements of this “treatment”, as the preceding mapping exercise has illustrated will be exceedingly difficult to simulate in experimental settings due to the necessity that they have meaningful consequences for participants. While experimental researchers have no doubt developed techniques for attempting to overcome them, these limitations provide good reason to combine their efforts with the study of real world participatory deliberative venues.⁴⁵

A case study approach focusing on a real world venue that is located in or near the “highest educative potential” region for all three categories is capable of generating crucial insights concerning the question of deliberation’s educative effects. If educative effects cannot be found there, where conditions are most favorable, these venues provide good reason to be skeptical that any participatory deliberative venues can generate these impacts. On the other hand, any effects that are found will provide good ground upon which to describe the mechanisms necessary for producing them in other contexts. Selecting a deliberative venue according to this skeptical orientation appears warranted in light of the empirical elusivity of these widely sought after effects. I argue that community mediation is one such venue. In the remainder of this chapter I introduce the community mediation process as one that fits the conditions outlined above, present the methodological approach I take to examining its educative potential, and provide an initial introduction to the context where I study it.

2.4 MAPPING COMMUNITY MEDIATION IN THE DELIBERATIVE FIELD

Community dispute resolution organizations (CDRs) are non-profit agencies that offer free or sliding scale conflict resolution services, especially mediation (often called

⁴⁵ Though I choose to focus on real world deliberative venues, another implication of my argument is that experimental researchers interested in educative claims should seek to incorporate appropriate conditions of collective decisions, scope, and intensity in their design of deliberative treatments.

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community mediation), to address citizen disputes. Their services are usually offered by trained volunteers while the organizations themselves are run by paid staff. Since the 1970s, the number of such organizations in North America is estimated to have grown from under 10 to a peak of over 500 in 2002. Current estimates suggest that recent reductions in foundation funding and state-wide support, and the recent economic downturn have reduced the number of organizations to between 300 and 400 (Hollingshead and Corbett forthcoming).⁴⁶ Community mediation applies participatory deliberative principles to micro-level disputes among small numbers of citizens (usually two). Conflicts between neighbors, roommates, landlords and tenants, consumers and merchants, and among family members or intimates are the sorts of matters dealt with through community mediation.⁴⁷ Citizens in conflict meet face-to-face to participate voluntarily⁴⁸ in the mediation process, which is a facilitated deliberation that allows for the exploration of issues and the generation of potential solutions to the conflict. Mediators have no formal decision making power, therefore, participants in mediation are responsible for the agreements they reach. Although the exact role of the mediator is a contested issue in mediation circles, generally the mediator focuses on process and avoids getting involved in the content of the conflict. In short, the mediation process stresses norms of volunteerism, self-determination, and non-violence.

Not surprisingly, given the deliberative and participatory characteristics of the community mediation process, many mediation theorists and practitioners have historically and recently sought explicitly to have educative effects on participants. The emergence of

⁴⁶ According to Hollingshead and Corbett, the organizational membership rolls of the National Association for Community Mediation (NAFCM) are approximately 300. They note however that membership rolls do not provide an accurate total and Justin Corbett, NAFCM's Executive Director, estimates the total number of organizations is closer to 400 (March 2011 correspondence on file with the author).

⁴⁷ Emphasis has traditionally been placed on disputes between neighbors but the cases I have examined suggest that some CDRs are addressing conflicts between family members and intimate just as often.

⁴⁸ There are some jurisdictions where mediation is mandated by law for civil disputes but CDRs are not normally responsible for convening mandatory mediation.

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the first community dispute resolution organizations (CDRs) in the United States in the 1970s coincides with the birth of the academic field of conflict resolution and alternate dispute resolution (ADR).⁴⁹ In this formative period, organizations offering mediation services to citizens in conflict developed along two distinct tracks, one sponsored by the formal justice system (court-based model), and one having more grassroots origins (community empowerment model). Although such a simple binary is incapable of capturing the complexity of the organizational field, many accounts of community mediation's history have noted this basic distinction between those centers who conceived their mission in instrumental and efficiency related terms (relieve congestion of the courts) and those who articulated non-instrumental educative goals in the tradition of participatory democracy (strengthening of social networks, building of community capacity, and highlighting of shared problems) (Wahrhaftig 1982; McGillis 1997; Shonholtz 2000).⁵⁰ In fact, the community mediation "movement" is explicitly connected by some to the wave of social movements that established alternative participatory institutions in the US in the 1960s and 1970s as a practical examples of participatory democratic theory (Coy and Hedeem 2005).⁵¹

The "community empowerment" organizational model, though less prominent in the field, has persisted and lends significant symbolic resources to those trumpeting mediation's value (Harrington and Merry 1988). Mediation advocates who continue in this tradition emphasize the capacity of the mediation process to enhance participants' democratic capacities (Weinstein 2001; Shonholtz 2000; Bradley and Smith 2000; Wahrhaftig 2004).

⁴⁹ See Bingham, Nabatchi, and O'Leary (2005) for a framework that places ADR within the spectrum of "new" forms of participatory governance.

⁵⁰ For this reason I do not focus my study on court-based mediation programs, but orient myself instead to those mediation programs at the community empowerment end of the spectrum.

⁵¹ For research evaluating the extent to which CDRs are currently living up to their participatory roots at the *organizational* level see (Gazley, Chang, and Bingham 2006; Gazley, Chang, and Bingham 2010). Unfortunately, their research does not address the ability of CDRs to realize participatory aims through effects on individuals who use their mediation services.

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More recently, the educative potential of mediation has been emphasized by those advocating for a model of “transformative mediation” most heavily associated with Bush and Folger’s 1994 book *The Promise of Mediation* and their subsequent founding of the Institute for the Study of Conflict Transformation in 1999.⁵² Proponents of this approach argue that through instances of “empowerment” and “recognition”, the mediation process can contribute to the moral development of individuals by making them feel more efficacious, become more other-regarding, and adopt a relational worldview (Bush and Folger 1994; Bush and Folger 2005; Della Noce, Bush, and Folger 2002).⁵³ Despite the prominence of such non-instrumental claims, empirical research on the effects of community mediation is overwhelmingly focused on instrumental measures of success (Lowry 1993, 96). As one review of the research remarks, “the prevalent measures of community mediation fail to capture many of the field’s broader goals, leaving some larger questions unanswered” (Hedeen 2004, 125). While many CDRs continue to operate in the tradition of the ‘community empowerment’ model and/or with transformative ambitions, they have little systematic research to bolster their claims, adjust their expectations, or improve their practice (Hollingshead and Corbett forthcoming). Thus, the case of community mediation mirrors the field of democratic theory and practice more broadly in that it lacks empirical confirmation of important normative justifications.

Furthermore, the community mediation process is situated at the appropriate end of each of the continuums relevant to educative potential that I sketched in the previous section. With respect to *collective decisions*, the community mediation process is designed to

⁵² See <http://www.transformativemediation.org/>.

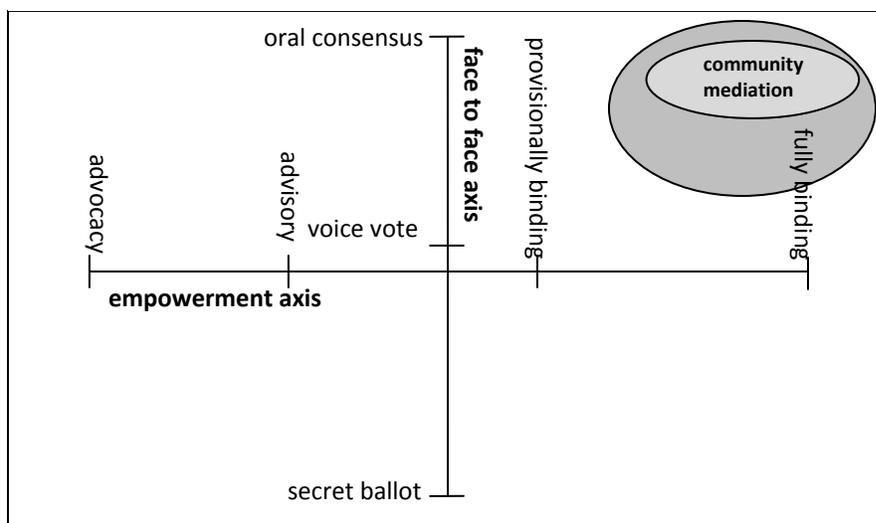
⁵³ Though Bush and Folger identify the primary goal of transformative mediation to be “transformation of the parties’ conflict interaction” and suggest that changing individual parties should not be a mediator’s focus, they acknowledge that the process may indeed have lasting individual impacts on the parties (2005: 233). Their emphasis is therefore placed at the relational end of the “better citizen” continuum though they acknowledge the potential for individual level changes as well.

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have a specific problem solving orientation and to provide a structure in which participants can make agreements, often in writing, about the issues they are currently facing.

Participants enter into agreements (or decide not to enter into agreements) in face-to-face setting and through a consensus building process that requires the participation and support of all who are present.⁵⁴ They are therefore located at the high end of the “face-to-face” continuum. The participants are also “empowered” in the community mediation process in the sense that the decisions they make are final and not dependent on an outside authority to endorse, enforce, or implement them. In this sense the agreements participants reach are immediately binding on them. Though they are not necessarily legally enforceable, the decisions made in community mediation will have immediate meaningful consequences for the lives of the participants, whether they choose to comply with the decisions they make,

Figure 2.4: Community Mediation and Collective Decisions



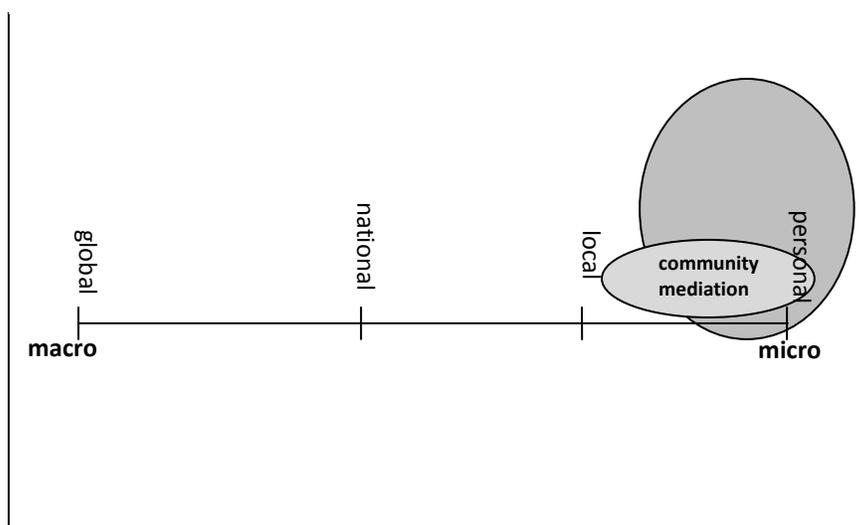
⁵⁴ The community mediation process therefore differs from other approaches often used in labour-management or formal legal contexts (civil litigation, divorce) where a “shuttle mediation” approach is often used and parties rarely if ever meet in face-to-face settings.

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breach the agreements they entered into, or conclude the process without reaching an agreement. Therefore, as Figure 2.4 illustrates, the process belongs at the high end of the “empowerment” continuum as well.

With respect to *scope*, community mediation deals with highly localized and personalized issues often of immediate concern to as few as two people.⁵⁵ This process is designed to manage interpersonal conflicts that arise in neighborhood, family, workplace, and other settings. For this reason, they have rarely been the focus of political theorists describing deliberative venues.⁵⁶ But it is precisely because community mediation is located at the micro end of the scope continuum, as Figure 2.5 illustrates, that it is likely to have high educative potential. Because of the personal investment participants have in the issues under discussion and the conflict context in which such discussions are convened, community mediation is an example of “hot deliberation”, which is expected to produce greater investment of energy and resources on the part of participants (Fung 2007b, 165). These

Figure 2.5: Community Mediation and Scope



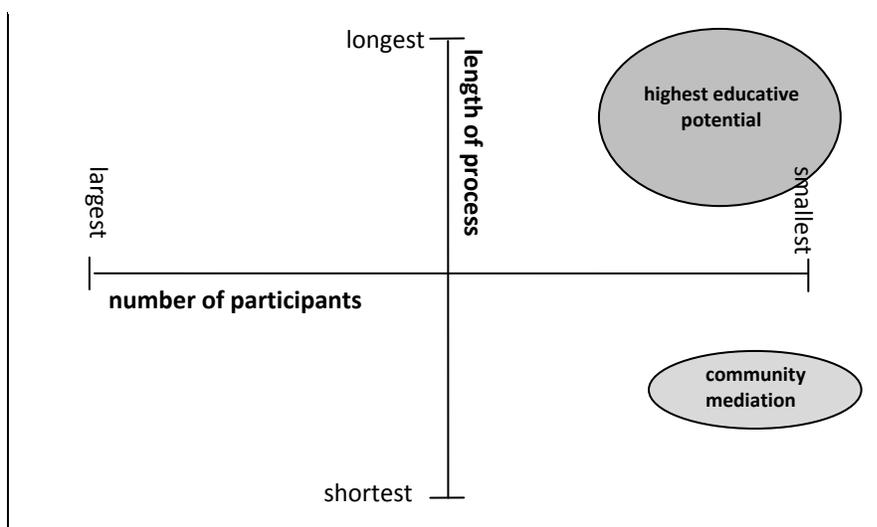
⁵⁵ See Appendix I, Table 2.3 for examples of the kinds of issues that come up in community mediation.

⁵⁶ For a notable exception see (Schlosberg 1995; cited in Dryzek 2000, 49). While I argue that these distinct features make community mediation a deliberative venue that is ripe for empirical study of educative effects, they also make it imperative that generalizing to the broader set of deliberative venues, where the focus is usually on more public issues, be done with care.

conditions are posited to be conducive to educative outcomes.

With respect to *intensity*, community mediation most often includes as few as two people in the presence of one or two mediators to discuss matters of shared concern. They may sometimes involve groups of three or more but rarely convene more than five people at a time.⁵⁷ While direct participation will obviously vary from person to person, and the larger the number the easier to remain withdrawn as a participant, the small number of participants in community mediation makes it a relatively intense deliberative experience. In terms of length, a typical community mediation session lasts three hours.⁵⁸ Most cases are closed after one session but it is not uncommon for the process to reconvene for a second or even third session that span over several months.⁵⁹ Community mediation is therefore comparable in terms of length to many other deliberative venues and shorter than some others, discussed

Figure 2.6: Community Mediation and Intensity



⁵⁷ Of the 19 community mediation cases that I examined, 13 convened 2 people, 4 convened 3-5 people, and 2 convened 5-7 people, 0 convened more than 7 people. While these small numbers are sure to generate a certain degree of participatory intensity, they will not produce the number of distinct perspectives that might follow from a larger group. This trade off must be kept in mind when generalizing from this case.

⁵⁸ Exact time duration of the mediation cases I examined are not available but it is standard practice at the CDRs I studied to schedule mediation sessions for three hours. I did not hear reports of sessions that deviated significantly in length from this during interviews with practitioners or participants.

⁵⁹ Of the 19 community mediation cases I examined, 7 involved more than 1 joint session. None of the cases involved more than four sessions. With the exception of one case that involved multiple sessions spanning over two years, cases with multiple sessions took place within a 1-3 month time period.

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above. It is therefore located in Figure 2.6 in the lower right quadrant below the “highest educative potential” space of the intensity map. Due to its small number of participants, however, it remains a highly intense experience relative to other deliberative processes. As Figures 2.4, 2.5, and 2.6 demonstrate, community mediation is a participatory deliberative process located in or close to the “high potential” space of all three mapping categories and therefore a good case for exploring educative claims empirically.

Finally, in addition to having all the conditions suited to high educative potential, community mediation is a fruitful empirical context due to the central importance it places on the *mediators* themselves. Participatory deliberative processes are often convened by moderators, facilitators, or trainers who may exercise considerable influence over process, agenda, and outcome. Such influence may be necessary in order for desired educative effects to occur because of what is already known about the limits of citizens’ capacity to conform to democratic ideals (Rosenberg 2007b, 359). While empirical research on participatory deliberative processes focuses little on the role of facilitators, community mediation provides a case where their role is made explicit. Mediation theory and practice places significant emphasis on how mediator skills and techniques can contribute to outcomes for participants in ways that are relevant to but overlooked in a wide range of deliberative processes. The theory and practice of community mediation is based on the view that mediators can and should exert control over *process* in ways that are productive for the parties while respecting the parties control over the *content* of the mediation, so as to reinforce the norm of autonomy (Nabatchi, Bingham, and Moon 2010; Moore 2003).⁶⁰ Process control however, may involve a high degree of management of participant communication thus assigning significant

⁶⁰ While a continuum certainly exists in the broader mediation field concerning mediator levels of “directiveness”, community mediation is consistently associated with lower levels of mediator involvement in the content of the mediation.

influence to the mediator in ways that can compromise participant autonomy.⁶¹ Community mediation is therefore a case that can contribute to our understanding of the relationship between moderator techniques and the mechanisms that generate or limit educative outcomes and the tensions these techniques present for democratic norms in the deliberative process. Such insights can help to advance deliberative theory, which has up to now given minimal attention to the role of moderators in helping or hurting real world deliberation's chances of approaching the regulative ideals theorists describe. As I show in the next section, mediation theorists and practitioners have a well developed way of describing the role of mediators in the participatory deliberative process and linking this to educative goals. Before presenting the methods I use to explore community mediation's educative effects, I show how the educative goals articulated by mediation theorists fit with the categories of *efficacy*, *interests*, and *relationships* I outlined at the beginning of this chapter.

2.5 COMMUNITY MEDIATION AND EDUCATIVE CLAIMS

Though mediation theorists and practitioners employ a different terminology, their educative assumptions align with the categories of *efficacy*, *interests*, and *relationships* that I outlined previously. This can be seen through earlier debates between advocates of the community empowerment model of mediation and their critics and through more recent debates between advocates of “transformative mediation” and their critics. Community mediation advocates believe that mediation participants will experience *empowerment* in the mediation process, meaning that they will develop skills and dispositions that increase their *efficacy*. They also hope to facilitate *recognition* on the part of participants so that they gain a

⁶¹ For further discussion of this point see section 2.7. There, I provide a basic overview of the mediator approaches and strategies I observed and heard about at my field sites and I return to these in Chapter 6. It is important to note however, that this is not the central focus of my research design and there are therefore limits on the extent to which I am able to comment on the role of mediators in the generation of educative effects.

better understanding of their own and others' *interests*. They describe the mediation process as *transformative* with respect to the *relationships* participants have with each other and with others more generally.

2.5.1 “Empowerment” and Efficacy

By providing a process where participants decide for themselves what resolution (if any) is most appropriate for them, mediation is expected to reinforce participant autonomy and increase participant efficacy. The importance of self-determination to mediation is often stressed, even in basic training materials (for example Beer 1997). It is this principle that has caused mediation advocates to relate community mediation to broader democratic goals and principles (Weinstein 2001; Shonholtz 2000; Bradley and Smith 2000). Furthermore, the emphasis on autonomy-related norms of self-determination, non-violence, and volunteerism in the mediation process are predicted by these advocates to have lasting effects on mediation participants. The language of ‘empowerment’ is often used to suggest that the experience of mediation will boost participant’s feelings of efficacy and influence their attitudes and behavior in areas of their lives not directly related to the mediated conflict (Shonholtz 1984; Schwerin 1995).

Critics observing the tension that can arise between “better decision” and “better citizen” goals in practice however, have argued that in many practical contexts, the emphasis on reaching settlement in mediation compromises its ability to increase efficacy (Bush and Folger 1994; Nader 1993). In fact, such critics argue, in their desire to move the parties towards agreement mediators provide a process that is coercive.⁶² Most notable here is Laura Nader’s argument that the mediation process reinforces norms of harmony that pressure parties into settlement even when they have good reasons (often structural) to

⁶² For a review of coercion in mediation and its distinction from coercion “into” mediation see (Hedeem 2001).

remain in conflict. This is usually accomplished through an emphasis on feelings and interpersonal dynamics in a conflict (Dubow and McEwen 1993, 152; Fitzpatrick 1993, 458, 460) and the suggestion on the part of mediators that ‘taking responsibility for your conflict’ means settling it. This may actually result, contrary to educative aspirations, in decreasing participants’ sense of empowerment and efficacy. Despite a long standing debate about the impact of mediation on participant efficacy,⁶³ little empirical evidence has been presented to support either side, especially evidence drawn from the perspectives of participants themselves.⁶⁴

2.5.2 “Recognition” and Interests

In the field of mediation theory and practice, educative claims concerning the interests of participants have been widely debated and discussed. In fact, the mediation process provides an excellent venue in which to investigate the increasingly nuanced interest clarification claims that have been articulated over time by deliberative theorists. With the emergence of “transformative mediation” in the 1990s, the claims now familiar to us from the “classic” deliberation literature, that the process can help participants to shift their understandings of their interests in a more other regarding or public spirited direction, have been re-emphasized. Similar to the debate in broader deliberation circles, Bush and Folger’s critics have questioned the value of a mediation process that suppresses self-regarding interests (Milner 1996). Bush and Folger’s approach (Bush and Folger 1994; Bush and Folger 2005), is provocative in part because the negotiation theory upon which much

⁶³ For an effort, drawing on Habermas and Foucault, to reconcile these two extremes and to suggest that community mediation makes limited personal empowerment possible, see Agusti-Panareda (2005).

⁶⁴ For a promising exception, see Nabatchi, Bingham, and Moon (2010), which presents compelling empirical evidence, based on the survey responses of mediation participants, that the goals of transformative mediation are realized in practice. Despite their important contribution to the dearth of empirical evidence about mediation’s educative effects, the scope of Nabatchi et al’s study is limited in several ways. First, it is conducted in a workplace rather than community context and therefore provides limited insight about the educative potential of community mediation. Second, they draw on mediation exit surveys completed by participants which offer little insight about the lasting effects of the mediation experience on participants.

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mediation practice is based (Fisher, Ury, and Patton 1983) emphasizes a process of individual interest clarification in the management of conflict. According to this view interest-based negotiation, in contrast to positional bargaining, will often reveal options that meet the individual interests of both parties to a conflict.⁶⁵ Proponents of interest-based negotiation do not hope, as Bush and Folger do, that participants will re-articulate their interests in other regarding ways. Instead they maintain that previously perceived conflicts can be overcome through a discursive process of interest disclosure and creative brainstorming. The possibility for agreement remains even if participants remain wedded to self-regarding interests.

Influenced by participatory democrats concerned with social inequalities (Bachrach 1975), community empowerment framers have stressed that mediation can clarify interests by offering participants the opportunity to identify the root causes of their conflicts (Shonholtz 1984; Shonholtz 2000; Wahrhaftig 1982; Wahrhaftig 2004). ‘Root causes’ refer to the larger social conflicts that often inform private interpersonal conflicts. Identifying ‘root causes’ requires the clarification of interests an individual has in a broad social conflict, which is by definition an interest they share with some social group (defined by ethnicity, race, class, gender, geography, religion, age, among others). Community empowerment practitioners claim that only a deliberative process for managing conflict is capable of clarifying these micro and macro level interests at play in a given conflict. In response, critics have been skeptical of mediation’s potential for clarifying interests at either level. At the micro level, they argue that without due process and substantive protections there are no means within the mediation process to ensure that a participant’s interests with respect to a

⁶⁵ Notably, deliberative theorists have recently drawn on Fisher and Ury and other negotiation theorists in order to articulate their conception of interest clarification and to expand their conception of the regulative ideal of deliberation (Mansbridge et al. 2010; Mansbridge 2009).

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particular conflict will be clarified or protected. At the macro level, they argue, the private and informal setting of community mediation enforces the individualization of disputes which downplays their relationships to broader social conflicts (Hofrichter 1982; Nader 1993; Abel 1982). In contrast to the formal law, which maintains a public record of all disputes and can track how they impact various social groups, mediation is expected to conceal the relationship between micro and macro level interests.

Mediation advocates and critics are therefore not only concerned with the *type* of interests that are made salient through mediation, they also make arguments about the *scope* of interests. The four stories Bush and Folger use to describe the mediation movement in the first chapter of their book are instructive for highlighting these debates (2005:7-39). Concerning interest *type*, Bush and Folger favor the ‘transformation story’ which suggests that mediation can clarify interests by generating more other regarding commitments among participants. They contrast this to the ‘satisfaction story’, which is more consonant with the Fisher and Ury’s notion of interest clarification and suggests self-regarding interests are clarified through the process.⁶⁶ With respect to interest *scope*, the ‘social justice story’ that can be attributed to ‘community empowerment’ thinkers like Shonholtz (1984; 2000) and Wahrhaftig (1982; 2004), suggests a broadening of the scope while mediation critics like Nader (1993), Abel (1982), and Hofrichter (1982) present the ‘oppression story’ about mediation, suggesting it accomplishes the exact opposite by narrowing the scope of the conflict in ways that reinforce and maintain social and structural inequalities. Though mediation theorists and practitioners have presented a complex set of interest clarification

⁶⁶ Bush and Folger also argue that the satisfaction story places too much emphasis on settlement to the detriment of other goals of mediation. The satisfaction story is in many ways consonant with the “court based” model of mediation I identified in my own review of community mediation’s history. Bush and Folger however, do not limit themselves to the history of community mediation only and aim instead to provide an overview of the entire field of practice.

claims, little systematic empirical research has explored the extent to which these expectations are realized through the mediation process.

2.5.3 “Transformation” and Relationships

Though Bush and Folger have made the focus on human relationships most explicit recently, mediation advocates have long emphasized the role the process could play in shifting the dynamics of interaction between participants and within a community more broadly. A 1982 evaluation of a pioneer community mediation program, the San Francisco Community Boards (SFCB), outlined twenty-five possible positive effects of a “community based conflict resolution system” (see Shonholtz 1993, 226).⁶⁷ Among these are several concerning relationships between participants and broader ‘community building’ effects. The list suggests that community mediation “builds common understanding about appropriate behavior”, “builds understanding of and respect for different lifestyles”, “builds a sense of relatedness to others in the community”, and “counteracts alienation and isolation” (226). Like deliberative theorists, SFCB founder Raymond Shonholtz links the importance of these aspirations to the circumstances of deep pluralism, suggesting that “increasing ethnic and racial diversity of urban communities, and the growing tensions within them” make such effects more significant and more pressing (227). Though subsequent evaluation studies of the SFCB did not show changes in residents’ attachment to their neighborhood as a result of the program (Dubow and McEwen 1993, 166), these relational claims continue to form a core normative justification for community mediation.

This relational focus is also apparent in the account offered by Bush and Folger about the model of “transformative mediation” they espouse (1994, 2005). In their

⁶⁷ The effects are arranged in a table divided into three tiers of effects, primary being most immediate to the process with secondary and tertiary effects being more temporally removed. The relational effects mentioned here are located among the secondary and tertiary effects.

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approach, the mediation process is intended to shift the dynamics of conflict interaction from a vicious to a virtuous circle of conflict transformation. According to Bush and Folger, when the mediation process is working as it should, “the [conflict] interaction as a whole begins to transform and regenerate. It changes back from a negative, destructive, and demonizing interaction to one that becomes positive, constructive, connecting, and humanizing, even while conflict and disagreement are still continuing” (2005, 56). Bush and Folger’s claims appear more contained to the immediate interaction between parties in conflict than the “community building” claims of Shonholtz and others. They are, however, explicitly situated in a broader theoretical framework that stresses the centrality of social interaction to human life. Drawing on social psychological, political, and moral theory, they espouse a view of human nature that requires a balance between individual autonomy and social connectedness. They advocate a model of mediation they believe can support people to engage in social interaction and to “turn conflict itself into an opportunity to deepen and enhance interaction, personal strength, and interpersonal understanding” (256).

The mediation field is highly varied and no one approach or set of outcomes can capture it in its entirety. As I noted above, this is true even for the subfield of community mediation within the broader field of mediation practice. Nevertheless, as I have aimed to show here, in the wider mediation field and in the community context especially, educative claims are frequently articulated in ways that match the categories of efficacy, interests, and relationships that I drew from participatory theory. This is not at all surprising given the influence of participatory democracy on community mediation in its formative years, but it serves to further underscore community mediation’s value as an empirical case from the perspective of democratic theory. Furthermore, because of their practical focus, mediation advocates have sometimes articulated these claims in ways that are quite specific and

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nuanced and that can advance our thinking about the causal mechanisms of deliberation's educative potential. This is true in part because of the central role of the mediator in the process, and the need to articulate the overall mechanism of the process in practical terms for the purpose of training and mentoring mediators to fulfill their role consistent with mediation's principles and values. Having introduced community mediation as an appropriate and, in many ways, ideal empirical case for the exploration of deliberation's better citizen claims, I will next explain the methods I employ in examining community mediation's educative effects.

2.6 METHODS

Up to this point, I have presented several aspects of my approach to the empirical study of deliberation's educative potential. First, I have chosen a real world case study approach as opposed to an experimental design approach. I have done so on the grounds that a deliberative experience is quite complex, making it difficult to simulate in experimental design, in particular due to the relationship that is theorized to exist between real stakes of the process and its educative potential. Thinking about the features of *collective decisions*, *scope*, and *intensity* as continuums upon which deliberative venues vary, we can locate different cases for potential further study and get a better sense of how what we find in one case does or does not relate to others. This is important in a field where single case study research is often conducted with limited attention to the way findings may or may not transfer to other deliberative contexts. I have argued for a critical case selection design that targets a deliberative venue where educative outcomes seem *most likely* to occur (Flyvbjerg 2006; George and Bennet 2005). Detailed study of this single case can either provide strong support for the dismissal of educative assumptions and/or exemplary evidence of how and

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why educative outcomes are produced. In either event, this single case, both despite and because of its particularities, can generate insights relevant to the wider deliberative field.

Having selected community mediation as such a case, the next question concerns how to actually measure its potential to generate educative effects. By conceptualizing educative effects in terms of *efficacy*, *interests*, and *relationships*, I have tried to respond to calls to “pay close attention to what past theorists actually said when they described what they saw and how they understood it” (Mansbridge 1999a, 320). My contention is that these categories provide a better theoretical footing to pursue our empirical investigation of educative assumptions than has most previous research. But these categories make ever more plain the fact that “research on this topic has the intrinsic difficulties of trying to measure small and subtle psychological effects” (319). Because much of these effects cannot be observed directly, and those that might could only be done so with great difficulty, research must rely on the accounts of the participants themselves about their thoughts and actions. Political behavior research has long operated in this way through its reliance on survey data about attitudes and behaviors. Indeed it seems to make perfect intuitive sense that if we want to know what people think, feel, and act, we should simply *ask them*. This is complicated however, by the fact that we know people’s perceptions of themselves do not always match the perceptions that others have of them and further by the fact that we have good reasons to think people cannot always provide an account of their own thought processes or the sources of those processes (Nisbett and Ross 1980; Nisbett and Wilson 1977).

Survey researchers attempt to address these problems by limiting the explanatory burden they place on people themselves. Rather than asking people to describe the relationship between their experiences, thoughts, and actions, they opt to ask simpler

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questions of large numbers of people and to identify relationships between various attitudes, behaviors, and events with the use of statistical techniques. For those experimental researchers who rely on survey instruments, pre/post and control group designs serve to increase confidence that the outcomes people report can be isolated to the experience in question. The reports are usually brief, closed-ended, and framed in the researcher's terms. I opt instead for a different approach that seeks out, mainly through in-depth interviewing, detailed accounts from community mediation practitioners and participants themselves about their own experiences. With respect to practitioners, I draw on their training and experience to refine my understanding of the basic features of the community mediation process as it is applied in a real world context, especially the features relevant to their educative aims. With respect to participants, I listen carefully to their accounts of the community mediation experience and its lasting effects on them.

Such an approach does place a greater explanatory burden on the people themselves, and for that reason it must be done with care and attention to the ways that people are not always well equipped to shoulder this burden. First, this does not mean that I naïvely accept participants' accounts. As Soss notes, "making it a priority to *encounter* participants' understandings on their own terms is not the same as *accepting* participants' descriptions of their understandings" (2006, 133). My contention, however, is that in light of the limitations of self-reports for exploring these kinds of questions, there is value in gathering more detailed, self-directed narrative accounts from participants about the relationships between their experiences, thoughts, and actions (Walsh 2007, 9; Monroe 2004, 267-285). Furthermore, in depth interviewing provides its own resources for managing the methodological challenges associated with self reports. Specifically, it allows the researcher to probe in much greater depth the meaning participants ascribe to particular words, actions,

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and experiences and places a priority on exploring the different ways participants may interpret the interviewer's questions and the different things they might mean even when using similar words (Soss 2006, 132). My interview style combines open ended questioning in the early parts of the interview designed to harness the revelatory power of people's own narratives with more structured questioning later on to probe, in more directive ways, into the educative categories of interest. Therefore, in adopting this approach, I intentionally engage in *interpretation* of participants' accounts and aim to present, as transparently as possible, the reasons for the interpretations I adopt.

As a result of my approach, this research is best suited to address the way participants make sense of their experiences with community mediation, and to show how they understand and makes sense of its effects. Such an approach must admit certain blind spots, as it cannot entirely overcome the blind spots of the participants themselves in the account it provides. At the same time, however, it opens up its own areas for insight that are missed through other methods. First, due to the subjective and internal processes implicated by educative assumptions, participants' accounts are absolutely crucial to our understanding because they simply cannot be accessed in any other way. Given the subtlety of the effects we are seeking, if participants prove capable of articulating these in their own words, this should not be treated lightly or easily dismissed. Second, these in-depth accounts provide rich descriptions of the deliberative process and experience itself. This provides the opportunity to fill in the "black box" of the process left by much existing research and begin to identify, from the perspective of participants, the causal mechanisms that may account for the presences or absence of various educative outcomes. Gaining access to these in-depth accounts requires however, largely for practical reasons, that I focus on the community

mediation process in one particular geographic and organizational context. I selected two CDR organizations in Toronto for this purpose.

2.6.1 Field sites: why Toronto?

The CDRs I study in this project are St. Stephen's Community House Conflict Resolution Service (CRS), located in the Kensington Market neighborhood near Toronto's city center, and Conflict Mediation Services of Downsview (CMSD), located in the Jane and Finch neighborhood in Toronto's north end. Toronto, as home to these CDRs, has several advantages as a site to conduct this research. Unlike many cities, Toronto is home to two well-established⁶⁸ CDRs who share similar organizational structure, missions, and approaches to mediation that are in line with the 'community empowerment' tradition of community mediation. Like the early community empowerment framers of community mediation described above, the Toronto CDRs do not take cases that have already entered the formal justice system and seek instead to intervene earlier in conflicts and to address conflicts that are not likely to come to the courts. They rely on self-referrals, and referrals from police, public and cooperative housing staff, and other early interveners in neighborhood conflicts. These qualities are notable because they increase the salience of educative aims and potential relative to other CDRs who have a more court-based and efficiency focused missions.

As I described above, it is from this 'community-empowerment' approach that the educative claims of community mediation have their genesis, and this is also where they continue to be advanced most prominently today. It is no coincidence that these organizations are located in Canada. Observers of the history of community mediation have noted that CDRs in the US have tended over time to become more closely affiliated with the

⁶⁸ CRS was established in 1985 and CMSD was established in 1987.

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courts (Hedeem and Coy 2000; Hedeem 2003; Coy and Hedeem 2005; Morrill and McKee 1993), but this trajectory has not been mirrored in Canada where there is a more lasting presence of the community empowerment model CDR.⁶⁹ This suggests that Canada, and Toronto especially, is a good place to study the educative potential of community mediation. Following the same “most likely” case logic used to select community mediation as a deliberative venue within the overall deliberative field, CRS and CMSD are CDRs within the community mediation field that are relatively likely to generate insight about the process’s educative potential.

Toronto presents an additional methodological advantage because these desirable qualities are shared in common by two organizations located in the same city. In fact, more than simply sharing a similar ‘community empowerment’ orientation to community mediation, CRS and CMSD are both leading members of a recently formed coalition of CDRs in Ontario that has established a common definition of community mediation, which emphasizes transformation, empowerment, and recognition while highlighting values of social justice, equality and inclusivity.⁷⁰ Because of this consensus and the considerable cooperation between the organizations with respect to case processing and training work, I aggregate my findings across the two field sites into one relatively consistent narrative about the educative expectations and outcomes of the “Toronto model” of community mediation.⁷¹ The inclusion of two organizations in the study is not intended to provide comparative leverage in the research design but rather as a strategy for increasing the number of observations included in the case study (King, Keohane, and Verba 1994). The

⁶⁹ This view has been confirmed through discussions among mediation practitioners about Canadian community mediation organizations and how they differ from their American counterparts conducted by email on the National Association for Community Mediation’s listserv (emails on file with the author).

⁷⁰ *Ontario Community Mediation Coalition Terms of Reference and Standards for Training Ontario Community Mediation Services Volunteers*, on file with the author.

⁷¹ I remain sensitive to the impact of variation across organizations and report on this where relevant throughout.

opportunity to increase the number of observations while keeping contextual factors (geography, organizational model) relatively constant is crucial because CDRs, especially those with a ‘community empowerment’ orientation, have relatively small case loads.⁷² Before presenting the main characteristics of the “Toronto model” of community mediation, I describe the tools I used to access and generate the data I draw on for the project.⁷³

2.6.2 Tool and Steps: Observation and Interviews

The data were accessed in two steps that both involve mainly interviews supplemented with some observation. Step one interviews and observation served to build an understanding of 1) the mediation process as it takes place at the Toronto CDRs, and 2) the views of practitioners about the educative potential of the process. In step two they served to build an understanding of the views of mediation participants about the effects of the process on them. During step one, I conducted participant observation of introductory mediation trainings at each CDR.⁷⁴ These workshops take place over three days (24 training hours total) and are required for those wishing to become volunteer mediators. They provide a basic overview of the model of mediation used at the Toronto CDRs and the basic steps expected of mediators in delivering the service. Training workshops also include a number of role play exercises where mediations are simulated and experienced trainers model techniques for trainees. In order to better relate the educative claims of interest to the everyday practice of community mediation, I also interviewed CDR volunteers and staff at

⁷² From July 2006-July 2007, CRS convened 11 mediations and CMSD convened 20 mediations in their respective community programs. Though the total number of cases for both organizations exceed these numbers greatly (a case may involve initial intake calls and/or case development meetings), mediations actually take place in only a small proportion of cases.

⁷³ I use the terms “access and generate” instead of “collect” data because these seem to be more appropriate terms for the interpretive enterprise my observation and interview techniques require (Yanow and Schwartz-Shea 2006, xix).

⁷⁴ To protect the confidentiality of participants, I will sometimes refer to the Toronto CDRs as CDR1 and CDR2.

both organizations. Through focus group and individual interviews (n= 41),⁷⁵ I listened to the views of program staff and volunteer mediators about the goals and effects of the community mediation process. Table 2.1 provides a summary of the staff and volunteer interviews.⁷⁶

Table 2.1: Interviews with CDR Volunteers and Staff

Interviews	CDR1	CDR2	Total
Focus Group Participants (Volunteers)	16	12	28
Individual Participants (Volunteers)	6	3	9
Individual Participants (Staff)	2	2	4
TOTAL	24	17	41

Interview questions asked about the mediation process at the Toronto CDRs, its relationship to the goals and mission of the CDRs, and whether and how the mediation process has lasting effects on participants. These interviews, along with the participant observation of training workshops, helped me to understand the approach to mediation taken at the Toronto CDRs and the views of staff and volunteers about the educative mechanisms and effects of the process.

My analysis of these data began with a set of pre-determined codes such as “the mediation process”, “efficacy”, “interests”, and “relationships”. I then proceeded inductively to identify additional themes in the interviews and subthemes within each of the pre-determined codes, generating additional coding categories as a result. For example, practitioners emphasized themes of “self-determination” and “therapeutic” in their descriptions of the mediation process, and themes of “confidence”, “self-reliance”, and

⁷⁵ I conducted individual interviews with staff that had direct and supervisory responsibilities for the community mediation programs at CDR1 (n=2) and CDR2 (n=2). All volunteer mediators at both CDRs (n=99) were contacted by email and phone and invited to participate in a focus group interview (2 focus groups were scheduled for each CDR). Those who indicated a willingness to be interviewed but were unable to attend the focus group sessions were interviewed individually. See Table 2.1 for details. Of a total of 55 volunteers at CDR1, 22 (40%) participated in either a focus group or individual interview. Of a total of 44 volunteers at CDR2 15 (34%) participated in either a focus group or individual interview, for an overall response rate of 37%.

⁷⁶ For a complete list of participants by pseudonym, CDR, and interview context (focus group vs. individual) see Appendix I.

“capacity” in relation to efficacy, which became additional coding categories. My goal with this analysis was to interpret the way practitioners at the Toronto CDRs understand the mediation process and its educative effects by tracking recurring themes in their accounts. I therefore do not present the results of this analysis in quantitative form but instead provide a descriptive summary of dominant themes illustrated by select interview excerpts. Some of this analysis is included below in my description of the “Toronto model” of community mediation. The rest is included in Chapters 3, 4, and 5, where I present my interpretations of staff and volunteer perspectives as they relate to efficacy, interests, and relationships. I also incorporated insights from this analysis into the design of my interview questions for mediation participants in step two.

In step two, I conducted individual interviews with mediation participants ($n = 31$) within one year of the conclusion of their mediation.⁷⁷ All individuals who participated in a mediation at CMSD or CRS that concluded between July 1, 2006 and July 1, 2007 were invited to participate in an interview, and 43% of those contacted did so.⁷⁸ Table 2.2 provides details about the participants and the mediation cases included in step two

⁷⁷ Conducting pre-process interviews with participants was not feasible due to constraints presented by central features of CDR case intake process and principles. Time pressure to move the case into mediation and commitment to maintain participant confidentiality make accessing participants prior to the process challenging. Furthermore, CDRs often struggle to convince potential clients to attend the voluntary mediation process and are therefore hesitant to allow any additional intervention which might inconvenience parties or in any way motivate them to decline to participate in mediation.

⁷⁸ 72 potential participants were contacted first by mail and then by phone and invited to schedule a face-to-face interview. Of 72 potential participants, 13 were not reachable, 8 declined interviews, 20 agreed to but did not ultimately schedule or attend an interview, and 31 participated in an in person interview with the author (for a response rate of 43%). The breakdown of participants across field sites is as follows. From a total potential sample of 72, 45 participated in mediation at CDR1 and 18 were interviewed (40% response rate) while 27 participated at CDR2 and 13 were interviewed (48% response rate). Two additional interviews were conducted in January 2009 with participants from mediation cases I observed in July 2008 (both at CDR2) for a total of 33 mediation participant interviews. Two participant interviews were excluded from the analysis because the process they experienced departed significantly from mediation. With this exclusion, the total number of mediation participant interviews included in the analysis is 31. For further details about participants and mediation cases, see Appendix I.

interviews. As the table shows, interview participants came in fairly equal proportions from each CDR.⁷⁹ Rows four through eight include information about the mediation cases in

Table 2.2: Mediation Participants and Cases

Interviews	CDR1	CDR2	Total
TOTAL PARTICIPANTS	16	15	31

Mediation Cases	CDR1	CDR2	Total
Neighbor	6	6	12
Intimate	4	3	7
TOTAL MEDIATION CASES	10	9	19

which interview participants were involved. The total number of mediation cases is smaller than the total number of interviews because I sometimes interviewed more than one participant from the same case. As the table shows, more than half of the mediation cases involve neighborhood conflicts and the remaining cases involve conflicts between intimates (family members, friends, romantic partners etc.).⁸⁰

Interviews lasted between 30 minutes and 3 hours with most interviews lasting approximately 75 minutes. Interview questions asked for open ended accounts of the mediation experience and its effects, as well as more focused questions designed to elicit comments about the theoretical mechanisms of interest. I coded transcribed interview data using the three pre-established coding categories of “efficacy”, “interests”, and “relationships” and the related sub-codes I generated in step one (e.g. for “efficacy” these are “confidence”, “reliance”, “capacity”). I also generated additional coding categories based on themes in the participant interviews that did not fit with existing codes. For example, “avoidance” is a common theme in participant accounts of their relationships with conflict partners following the mediation and became a coding category. As a supplement to

⁷⁹ For comparisons of those who were interviewed to those who refused interviews, see Appendix I. As I discuss in more detail there, there is a slight over-representation of female participants in the interview sample.

⁸⁰ For more detailed descriptions of the mediation cases described in my interviews, see Appendix I.

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interviews with mediation participants, I also observed two mediation cases including case development meetings⁸¹ and the mediation session itself. These observations helped me to understand the way the mediation process described by workshop trainers, staff, volunteers and participants unfolds in actual practice.⁸²

The goal of this analysis is to be able to characterize the overall educative effect of mediation on each participant. This approach takes seriously the value of participant perspectives about the effects of the process on them. While they do not serve as objective measures of participant behavior after mediation, the questions of interest here are strongly related to subjective perception, and can therefore be productively explored by asking the participants themselves about their experiences with and since mediation. I present the results of this analysis in Chapters 3 (efficacy), 4 (interests), and 5 (relationships), with an overview of the results in Chapter 6. In each chapter I present the frequencies for various reported outcomes as well as descriptions of dominant themes illustrated by select interview excerpts.

2.7 THE “TORONTO MODEL” OF COMMUNITY MEDIATION

Before concluding this chapter, I briefly present the main features of the Toronto Model of community mediation as described to me by staff and volunteers and as I observed in training workshops and actual mediation sessions at St. Stephen’s Conflict Resolution Service (CRS) and Conflict Mediations Services of Downsview (CMSD).⁸³ Practitioner

⁸¹ At the Toronto CDRs, case development meetings are convened several days or more prior to the mediation session. At these meetings, which typically last about 2 hours, the volunteer mediators assigned to the case meet individually with each party to the conflict to get some background on their experience of the conflict and to describe the mediation process to them. See Section 2.7 “The Toronto Model of Community Mediation” for more details.

⁸² Observation of more mediation cases would have been ideal but, due to confidentiality concerns and logistical constraints, more observation was not possible.

⁸³ Where relevant, I note the differences I observed between the two CDRs, but I generally found such differences to be fairly minimal. For the most part therefore, throughout this section and the remaining

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descriptions and my direct observations reveal an approach to mediation that provides a good opportunity to examine deliberation's non-instrumental goals. Toronto CDR practitioners call their approach "transformative"⁸⁴ and their descriptions synthesize the principle of self-determination with therapeutic concerns. The following comment from a CDR staff member illustrates this dual concern by highlighting that the process allows parties to talk about their feelings (therapeutic) and have control over outcomes (self-determination):

And so this is an ideal opportunity for people to come together to share information, especially about their feelings, that will be helpful for others to understand them and to hear about others, to better understand about them. In order for them to get together to create outcomes that are reflective of your own interests and your needs. So it's the people involved that will create the outcomes, so you have that choice in creating what the future can be. So that's powerful for people to know and hear, they can have the control. (Gary)⁸⁵

Toronto CDR practitioners talk about these commitments both in instrumental and non-instrumental ways. Echoing the mantra of the mediation field more broadly, they emphasize the instrumental motivations behind their commitment to self-determination, believing that better and longer lasting agreements result from a process that places decision making power solely in the hands of those directly affected by the outcomes. Practitioners also describe

chapters I treat the "Toronto CDRs" more or less as one field site and characterize the views of the Toronto practitioners holistically without reference to their particular CDR affiliation.

⁸⁴ The use of the terminology "transformative mediation" here is not entirely congruent with the approach by the same name advocated by Bush and Folger (1994, 2005). Though they use similar terminology and share some principles and values, as I elaborate below, in the Toronto Model mediators typically structure communication between the parties to a much greater extent than Bush and Folger call for in their transformative approach to mediation practice. Though some Toronto mediators are familiar with Bush and Folger's approach, staff and trainers do not claim to be replicating it. In fact, the language of transformation used in the Toronto context implies even more ambitious and far reaching developmental goals than those stressed by Bush and Folger, who most often focus on "transforming" the conflict interaction and place less emphasis on lasting individual or relational changes. For evidence in another context of the lack of agreement among practitioners for the names of approaches used, see (Charkoudian et al. 2009).

⁸⁵ I have used pseudonyms to protect the confidentiality of participants. I have tried to select names that reflect the ethnic diversity of the participants. I have also made minor changes to interview excerpts to remove "ums" and other speech patterns that inhibit flow and understanding. In every instance I have made my best effort to preserve the speaker's intended meaning. Ellipses indicate that I have edited a more substantial section of the transcript in order to present participants' comments more parsimoniously.

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their commitment to therapeutic practice in instrumental ways, believing that efforts to process the emotional content of conflict in a psychologically healing way contributes to more stable and long-lasting agreements between parties.

They place more emphasis however, on the pedagogical and developmental agenda behind their commitment to self-determination and therapeutic concerns in their approach to mediation. In subsequent chapters, I will elaborate further on practitioners' commitment to educative goals with respect to the principle of self-determination (Chapter 3) and therapeutic concerns (Chapter 4). In brief, Gloria's comment below is illustrative of the priority placed on educative goals and shows how these are explicitly linked to what is described as a "transformative" approach to mediation.

We deal with what is called transformative mediation. ... The target of transformative mediation is not to get our solution. The goal is to have the parties feel a difference in the process [and] feel a difference between themselves. That they come here and they go out at least better than they were, you know in their relationship, in their feelings, that they feel at least they feel, somebody heard me you know. Something that makes a transformation inside them of some sort. ... Skills give them this power. So that's why we empower the parties and we're making them think you know what, you don't need somebody else to resolve the conflict for you. You are able to resolve your conflict, you have the power to do it. It's in your hands. (Gloria, CDR Volunteer)

Although they incorporate a greater therapeutic emphasis, these educative goals mirror those espoused by advocates of participatory deliberative processes more generally.

Having outlined the basic principles that inform mediation practice at the Toronto CDR's, I now turn to identify the main features of the process itself. Like many community mediation programs, the Toronto CDRs use a "co-mediation" model, meaning that two volunteer mediators are assigned to every case. When possible, efforts are made at "matching" the volunteer mediators to the parties in terms of age, gender, race, ethnicity, religion etc., and having two mediators helps to create a balance between mediator and

participant characteristics.⁸⁶ Unlike many community mediation programs however, the Toronto CDR process includes “case development meetings”. The mediators convene case development meetings separately with each party to the conflict several days in advance of the mediation at their homes, or in a neutral location such as a coffee shop or at the CDR office. These meetings typically last about an hour and during that time the parties will explain their perspective of the conflict to the mediators. Mediators listen to understand, explain the mediation process, and determine the appropriateness of mediation for the circumstances.⁸⁷

While most CDRs proceed directly from initial intake calls to a mediation session, these case development meetings are used by the Toronto CDRs as an opportunity to build trust and rapport with the mediators and to prepare parties for the mediation experience.

You start to coach people ... So getting people to look outside of oneself and to consider others and how you frame [it] so that two mediators working together is also a model for people to reflect on how two people can cooperate ... And so you engage as a cooperative team, working together with one person in the case development. It has some kind of psychological effect to influence people and to, think outside of their box. (Gary, CDR Staff)

And there we get the whole story from these people, there’s a lot of venting that goes on, there’s a lot of explaining why people are right and why are they vindicated in their beliefs. ... So we try to sort of put that sort of stuff aside and say that’s great, ok, ... we believe you. We’re moving people then as much as we can in the direction of, ... this sort of accountability, mutual problem solving state of mind and that happens to some extent on intake but often that’s what happens in those private meetings, that’s the state of mind we hope to get them in, to some extent at least in mediation. (Paul, CDR Staff)

⁸⁶ Mediators are assigned to a case following initial intake calls with each of the parties involved. Potential cases come to the attention of a CDR when they are contacted by a referral source or one of the parties directly. Initial calls are made to all involved parties to explain the service and get a preliminary sense of the issues involved. If all parties are interested in proceeding, mediators are assigned to the case and they will then make contact with each party.

⁸⁷ Along with accounts of the purpose and process of case development meetings I heard during interviews with CDR staff, volunteers, and mediation participants themselves, I observed a total of 7 case development meetings. 3 were associated with a case I observed that did not proceed to mediation and 4 were associated with the two cases I did observe through to mediation (for details about the mediations I observed, see Table 2.4 in Appendix I).

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This additional stage in the Toronto model, and its purpose as expressed by CDR staff members above, underscores the commitment of the Toronto CDRs to the educative goals of the mediation process.⁸⁸

Toronto CDR training materials break down the mediation process proper into three discrete phases and staff and volunteers refer to them by name when describing the process. “Phase one” begins with an opening statement from the mediators that introduces the process, and stresses principles of voluntariness, self-determination, confidentiality, and neutrality of mediators. Parties are then invited one at a time to present their account of the conflict to the mediators. During this phase, parties are discouraged from addressing each other directly and asked not to interrupt each other’s accounts. Mediators periodically restate and summarize their statements to confirm understanding. While one party speaks to the mediator, the other is asked to listen quietly and wait for their turn to speak. Once both parties have spoken and confirmed that mediator summaries are accurate, mediators move to “phase two” of the process.⁸⁹

During phase two, mediators ask questions of the parties about past, present, and future and invite them to address each other when giving their answers. Mediators structure this phase as a process of guided reflective or active listening between the parties. The party who is not speaking is asked to summarize and restate the response of the speaker and the

⁸⁸ The presence and stated purpose of case development meetings at the Toronto CDRs underscore the centrality of their educative aspirations. My specific concern in this study is with the educative effects of *deliberation* and I therefore focus my interviews and analysis on the effects of subsequent mediation sessions where parties interact directly. See Chapter 6 for a follow up discussion on the challenge of isolating the educative effects of the mediation process to these face-to-face sessions.

⁸⁹ At CRS mediators typically call for a break at this point in order to prepare questions for phase two. CMSD mediators are not instructed to call a break between phases one and two.

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speaker is then asked to confirm that they feel understood by the listener. When the mediators feel it is appropriate, they move to “phase three” of the process.⁹⁰

Phase three involves brainstorming solutions about specific issues that require resolution between the parties. If the parties wish, the mediators will assist them to record a written agreement outlining the specific behaviors each commit to undertake following the mediation. Though in practice mediations sometimes deviate from this formula, the Toronto model is generally one where, compared to other models of mediation, mediators exert relatively low influence over the content of the mediation and relatively high influence over the process. This is most evident in the descriptions of the mediator guided reflective listening that takes place during phase two of the Toronto model, which requires mediators to structure the communication between parties in fairly pronounced ways.

Toronto mediators regularly stress the importance of this process control to their educative goals and many describe “phase two” as the most “transformative” part of mediation. In this stage of the process, participants are expected to acquire or develop listening skills, express their own interests and understand the interests of others, and restore or improve their relationship. Yet Toronto mediators also stress the tension they encounter between these educative goals, the techniques they are taught to achieve them, and their overriding commitment to party self-determination. Their accounts of phase two of the process underscore this tension in two key ways. First, mediators acknowledge that parties are not always open to their educative agenda, particularly its therapeutic elements, and sometimes want to focus on an immediate solution rather than the relationship dimension of

⁹⁰ Another minor variation exists between the three phase model at CRS compared to CMSD. At CMSD mediators are trained to assist parties in identifying a list of issues in need of resolution following phase one. They then conduct phase two reflective listening and phase three brainstorming focused on one particular issue at a time cycling back between two and three as needed until each issue has been addressed. At CRS, mediators are trained to cover all the issues in phase two reflective listening before moving on to brainstorm solutions about all issues in phase three.

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the conflict. Many mediators describe their willingness in such cases to deviate from the structure of the Toronto model for the sake of instrumental outcomes and in order to respect party self-determination.

Perhaps more interestingly however, even when parties are willing to engage in talk about feelings as phase two calls for, some mediators express discomfort with the ‘formulaic’ or ‘by the book’ format of guided reflective listening and prefer to seek similar ends without giving so much direction to the parties. The following comments from a volunteer mediator illustrate this discomfort with the process control prescribed by the Toronto model, while at the same time acknowledging its centrality to educative goals.

It would be somewhat more rare in my process to have them do a lot of restating to each other. Which is interesting to me because that is, in some ways that’s the main method of transformation that exists in community mediation. I think it’s there for a reason so why don’t I use it? It might be that it feels somewhat less like a conversation and more something that I’m imposing on them to do. So I will get a sense from the way the conversation unfolds as to whether they are really listening to each other, hearing each other. If I feel like that’s really not happening that’s when I would do the restating. If I get the sense that they are listening and, and dialoguing then I don’t see there is much of a need, to require me to do that. (Jim, CDR Volunteer)

Indeed, the concerns Jim has about imposing on the parties are legitimate according to some mediation theorists. The prescription to impose guidelines or instructions for communication is what distinguishes the Toronto model from the Transformative model espoused by Bush and Folger, who view this type of process control as too heavy handed and therefore as a violation of the principle of self-determination (2005, 233; Folger and Bush 1996).

This tension between educative goals and the principle of self-determination, raises important questions about the role of moderators in participatory deliberative processes. If the core of participatory deliberative processes is participant autonomy and educative goals aim to reinforce this sense of autonomy, how do moderators encourage and facilitate this

process without at the same time violating their own principles and aims? Toronto mediators encounter this question regularly in their practice and this has implications for the experience of mediation participants and the effects they attribute to mediation. This tension, along with the basic features as I have described above, make the Toronto model of community mediation an instructive context to explore educative aims and outcomes in depth. In Chapter 6, following my review of participant perspectives on their mediation experience and its effects, I will return to these questions about the role that moderators play in helping and hindering deliberation's educative potential.

2.8 CONCLUSION

Above, I have introduced three analytical categories for parsing deliberation's better citizen claims. I argue, drawing from participatory theorists, that conceptualizing these claims in terms of *efficacy*, *interests*, and *relationships* helps to advance our conceptual thinking about a set of often undertheorized but regularly expressed normative justifications for participatory deliberative processes. Next, I presented a map of the deliberative field that helps to sort deliberative venues according to their educative potential. I suggest that mapping these venues according to *collective decisions*, *scope*, and *intensity* helps to locate appropriate empirical contexts where educative claims can be explored in depth. I have argued that such a map points to contexts that have not typically been the focus of deliberative research but that are nevertheless ideally suited to the empirical exploration of deliberation's better citizen claims. I have introduced one such context, community mediation, and argued that because it meets the conditions of a "most likely" case, it will contribute to our general understanding of deliberation's educative potential.

As I will discuss in the following chapters, because I find limited confirmation of deliberation's educative claims in this context, at least in the form they take in the theoretical

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literature, this case raises questions about the educative assumptions embedded in deliberative and participatory theory. Further, because it possesses conditions that theory predicts give it high educative potential, the sorts of lasting effects I do find are instructive to the wider field of deliberative theory and practice. Although research in other contexts is surely needed to explore further the role of process and design features that are particular to community mediation, it is a case that generates insights for the wider deliberative field. I presented my methodological approach, which draws heavily on practitioners' and especially participants' narratives of their experience and supplements these, as much as possible, with my own observations of the process. I explained my choice of the Toronto CDRs as a setting to seek out these narratives by presenting their theoretical and methodological advantages as field sites for this research. I concluded with an overview of the "Toronto model" of community mediation as explained to me by CDR staff, volunteers, and as I observed in training workshops and actual mediation sessions. In these accounts and observations I find further confirmation of the suitability of the Toronto CDRs as a site to study deliberation's educative potential. In the chapters that follow I examine practitioner and participant narratives in order to assess community mediation's educative effects in terms of *efficacy* (Chapter 3), *interests* (Chapter 4), and *relationships* (Chapter 5).

Chapter 3

Community Mediation & Efficacy Trying to Build the Skillful Citizen

3.1 INTRODUCTION

In this chapter, I focus on *efficacy*, the first of three categories for conceptualizing deliberation's educative effects that I proposed in Chapter 2. As I described there, efficacy expectations suggest that changes to participants' subjective (i.e., self-efficacy) and objective (i.e., skills) deliberative competence result from deliberative participation. Carole Pateman is best known for advancing this understanding of participation's educative effects. In her classic work *Participation and Democratic Theory*, she argues that "the major function of participation in the theory of participatory democracy is ... an educative one, educative in the very widest sense, including both the psychological aspect and the gaining of practice in democratic skills and procedures" (Pateman 1970, 42). Pateman referred to this "psychological aspect" as a sense of political efficacy, a concept developed by social psychologists and adapted by scholars of political behavior. Mediation advocates have made similar claims about the lasting effects of mediation, more often using the language of "empowerment" to describe a similar set of expectations (Shonholtz 1984; Schwerin 1995; Bush and Folger 1994; 2005).

In Chapter 1, I critiqued the use of standard measures of political efficacy in the empirical study of deliberation's educative effects. These measures focus on traditional forms of political participation and do not capture the claims, advanced by participatory theorists, that focus on deliberative competence specifically. Conceptualizing the kind of efficacy effects that are theorized to follow more directly from participatory deliberative experiences requires a focus on the capacities required for face-to-face discursive, and often

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conflictual, interactions. As I discussed in Chapter 2, community mediation is a deliberative venue well suited to the exploration of these kinds of effects, especially as it is practiced at the Toronto CDRs. I therefore seek to develop a conception of efficacy and skills appropriate to *deliberative* participation through an analysis of mediator efficacy expectations at the Toronto CDRs. I find that practitioner efficacy expectations can be broken down into three components. I call these confidence, self-reliance, and capacity expectations respectively. According to practitioners' confidence expectations, the mediation experience can strengthen participants' sense of general confidence to engage in conflict interactions with others. According to their self-reliance expectations, the mediation experience can increase participants' willingness to solve problems independently without turning to police, the courts, or social services. According to their capacity expectations, mediation participants can acquire concrete listening and assertion skills and apply them in the future.

My analysis of participant efficacy claims however, raises considerable doubts about these efficacy expectations. First, in many cases no such effects are described by participants in their post process interviews. Though some participants do in fact make convincing efficacy claims, my interviews suggest that lasting changes of this kind should be viewed as an exceptional, rather than typical, outcome.⁹¹ Second, many participants come to mediation considering themselves "pre-skilled", suggesting that the often implied notion that the process turns "conflict dunces" into "conflict experts" is misguided. This is not simply because it overestimates the educative potential of the process, but also because it misrepresents the typical orientation participants have at its outset. Pre-existing efficacy claims seem to influence outcomes in two opposing ways. In some cases, they appear to

⁹¹ While this is not in itself surprising, and practitioners themselves even seem to consider educative effects as best but rare outcomes, empirical evidence of just how rare and limited they are raises questions about pinning the normative justification for these processes to such educative aspirations.

prevent participants from considering the mediation as an educative experience, and in others, to actually prepare and prime them to experience it exactly as such. So, while pre-existing efficacy claims alone have little predictive power in terms of educative outcomes, their frequency challenges the notion that the mediation process is a remedial experience in the way that practitioners' efficacy expectations often suggest.

Third, in the cases where participants do describe changes linked to their experience in mediation, these are less related to the salience of self-determination in the process than they are to the relational dynamics between the parties. In the subset of cases where participants do make efficacy claims based on their mediation experience, these are often focused on communication and dynamics of interaction between them and their conflict partners. Furthermore, many times their efficacy claims do not transfer beyond the context of the mediated relationship. This suggests that individualized conceptions of educative effects, like those posited in terms of efficacy, are limited in their description of the educative potential of the process for at least two reasons. First, they overstate the educative potential of a relatively short intervention. Second, and more importantly, they place too much emphasis on autonomous individual decision making and not enough on everyday interaction and relational interdependence as central features of democratic citizenship. This suggests that we ought to attend more to the effects of deliberation in general, and community mediation in particular, on the relationships between citizens, as I do in Chapter 5. I develop this argument about efficacy below, drawing on interviews with mediation practitioners and participants.

3.2 MEDIATOR EFFICACY EXPECTATIONS

For mediation practitioners at the Toronto CDRs, efficacy expectations are linked explicitly to the principle of self-determination, and some address the broader civic significance of this feature and its effects explicitly:

Hopelessness is one of the biggest barriers to social change and I think hopelessness is something you often encounter in the early case development meetings for a mediation right, people say it's not going to be any use, my neighbor is never going to change, this has been going on for three years, nothing's going to be any different. And when things actually do change, if they do, cause sometimes they don't, but when they do, I think that feeling of like oh things can change, things can be different than they were, if you work at stuff sometimes you can make things different and I think that sense of agency, that sense of empowerment is a really important part of just being a member of civil society and trying to make your neighborhood, your kids' school, your city, your country, the world, a better place. (Courtney, CDR Volunteer)

Practitioners do not use the term efficacy, but their descriptions of the process and its lasting effects frequently reference related terms like empowerment, agency, self-esteem, and confidence. I find these expectations break down into three subcategories, which are all encapsulated in this illustrative comment from one CDR volunteer:

Through this process people get to be part of their own solutions and get that internal control which strengthens you, improves your self-esteem and gives you the power. And I think in general, we provide people with skills where they could meet their basic needs in a proper way and the people involved, to know that whatever I need and I feel whatever, the other person does too, how can we fulfill those needs together, and the solution will come from us, not the mediators, not the judge, not the police you know that's external control, it has to come from us. (Susanna, CDR Volunteer)

Susanna emphasizes the confidence, self-reliance, and capacity components of practitioner efficacy expectations. She begins by highlighting the feature of self-determination (“people get to be part of their own solutions”) and links that explicitly to increased “self-esteem”, suggesting that participants’ subjective perceptions of themselves are influenced (i.e., confidence). She then suggests that participants learn skills as a direct result of their experience in the process (“we provide people with skills”, i.e., capacity). Finally, she hints at

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the idea that participants will be left with an intention or disposition to manage problems themselves rather than remain dependent on external authorities (“not the mediators, not the judge, not the police”, i.e., self-reliance). I find these three distinct themes to be salient components of practitioner efficacy expectations, and I therefore parse them into three subcategories, which I call confidence, self-reliance, and capacity expectations. Below I elaborate on each before going on to assess participant efficacy claims according to these three categories.

Practitioner *confidence* expectations focus on one’s subjective feelings about their ability to solve interpersonal problems and manage ongoing interactions with conflict partners.

We want to empower, they come here and in a way they are, they feel power, empowered to be able to solve the problems or the issues, I guess that’s the first step. (Vivian, CDR Volunteer)

Practitioners believe that the self-determination inherent in the mediation process generate the increased confidence for participants.

I wanted to help people instead [to] ... be able to work things through themselves, with our assistance, and I think that just makes people stronger than necessarily handing solutions to people. (Kate, CDR Staff)

Self-reliance expectations focus specifically on the goal that participants become self-sufficient and capable of managing conflicts independently without the involvement of third parties.

And the other very important thing for me about mediation is that we live in a very structured society ... We don’t take responsibilities much for our actions, ... not as much as people used to, I believe, do that before. And I travel around the world quite extensively and I see in less developed countries that people ... instinctively talk to each other when they have a conflict. They don’t go to courts, they don’t go to shrinks you know to try to unload what’s inside of them and so on, and in that sense mediation is again a good thing because people talk, people communicate, people say what’s on their minds finally without asking the third or fourth party to help them. And we all tend to do that more and more and more. (Nikola, CDR Volunteer)

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Though they stress absolute self-reliance, these expectations are not entirely dichotomous, and an ongoing role for the mediation service is not ruled out as a stepping stone towards ultimate self-reliance.

The goal is not to get a resolution, it's to give people skills to deal with things on their own so they don't need us in the future. But if they do, need us, we're here to assist them. And everybody, just because they go through this once doesn't mean they won't come again. And I don't look at that as a negative either, I look at that in somewhat as a sign of confidence and also a building stone for ultimately they'll be able to deal with things in their own way. (Gary, CDR Staff)

Throughout their descriptions about confidence and reliance expectations, mediators make frequent reference to skills, as several of the comments above illustrate; I refer to these as *capacity* expectations. By far, the majority of these capacity expectations focus on communication skills and most often stress reflective or active listening.⁹² For example, when asked about the goals of community mediation, one CDR volunteer said:

One is actually to teach the person some listening skills. I think irrespective of what kind of conflict occurs, if you mediate actively, you are actually teaching those participants how to listen actively whether or not it's a petty problem or not ... I think that should be a stated and clear goal of any mediator going into a mediation. (Ajay, CDR Volunteer)

In addition to listening, practitioners also expect participants to learn skills that enable them to, in Sophie's words, "deliver a difficult message" in more productive ways. Richard also talks about this:

If there's going to be a change within the community the change has to come from within the community, so people have to learn how to speak differently and I think the transformative method is well modeled if that's what you ultimately want to accomplish within the community, this way of speaking differently. (Richard, CDR Volunteer)

These expectations relate to the communication technique called "assertion",⁹³ which practitioners sometimes call "I-statements"⁹⁴ in their discussion of mediation's goals.

⁹² See Katz and Lawyer (1985) for elaboration on the reflective listening technique.

⁹³ See Katz and Lawyer (1985) for elaboration on the assertion statement technique.

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Mediators place different and sometimes contradictory emphasis on modeling skills compared to overtly teaching skills in the mediation process. This can be illustrated through their explanations of the way participants might learn “I-statements”.

You stop in the middle of mediation you try to teach it, it’s an education piece and ... you tell him, ... the person how to do an I statement. (Andrea, CDR Volunteer)

Mediators are teaching them how to use I statements. (Kate, CDR Staff)

The I statement is a big take away, but some people might be able to take that away and emulate that in the future. (Roslynne, CDR Volunteer)

So that’s the I message and we really don’t teach it in mediation, although it often comes in by indirection, and that’s something that people do learn, and again we might stop and teach it if it seemed important in the moment ... A lot of it is leading by example, that’s how they learn it. (Paul, CDR Staff)

These statements show that mediator strategies for realizing their capacity expectations include both indirect modeling and over teaching, and Paul suggests that mediators adapt their strategies to the particular context.

Overall, practitioners believe that their confidence, self-reliance, and capacity expectations become fully realized when there is transfer beyond the specific circumstances of the mediation.

I would hope, but I don’t know that it’s always the case that the skills, the learning would be transferable to other situations, that would ultimately be the goal. (Karen, CDR Staff)

I would think it doesn’t really stop there, I mean that could, it could help with the interactions between themselves and the one, they came to the table with. But maybe it could also help in their communication with colleagues, family members, I mean we hope it’s going to be transferable throughout. (Kate, CDR Staff)

⁹⁴A basic skill often introduced in introductory communication training, “I-statements” provide a formulaic structure intended to communicate a concern non-confrontationally by anchoring the statement around the impact of the situation on oneself. The formula typically goes as follows: “When you [specific behavior of the other person], I feel [emotional impact of the behavior], because [reason for the emotional impact]. So what I would like you to do is [specific behavior change being requested].”

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Practitioners hope that, because efficacy effects are transferable in this way, they can have broader societal repercussions. Some, like Paul below, believe contemporary society is organized in a way that limits citizen's opportunities to manage their own lives, and in so doing robs them of the chance to develop their capacities to do so.

I think that the effect on society then is we have a society of people who are just more capable of living in the world themselves and they're less sort of a automatons or puppets ... less mob and more thoughtful citizens, you might say. ... So we combine those two things, you get more people taking responsibility and being accountable in ways that mean a more harmonious world. (Paul, CDR Staff)

Therefore, by emphasizing participant self-determination and by modeling and teaching communication techniques in the mediation process, practitioners aim to reverse the paternal features of contemporary society and build more skillful citizens. In the next section, I turn to mediation participant perspectives to explore the extent to which these confidence, self-reliance, and capacity expectations are in fact realized.

3.3 PARTICIPANT EFFICACY CLAIMS

My analysis of participant efficacy claims is presented in five sections below.

Although not stressed by practitioners, a reoccurring theme in the interviews with participants is their previous experience and skill level. I discuss these "pre-existing efficacy claims" in the first section. In the next three sections, I discuss participant efficacy claims in categories that correspond to the expectations of practitioners: confidence, self-reliance, and capacity. *Confidence* claims are general statements of confidence in one's ability to manage conflict. *Self-reliance* claims reference an ability or intention to manage present and future conflicts independently without the assistance of mediation services, police, courts or other potential intermediaries. *Capacity* claims specify particular techniques, skills, or strategies that are understood and applied to manage conflict situations. For each, I present the range of efficacy outcomes described by participants drawing on subcategories I generated inductively

through my analysis. In the final section I discuss the scope of participant efficacy claims to emphasize the distinction between claims that are limited to the mediated relationship and those that imply transfer beyond this context. Just over half of the participants make at least one of the three kinds of positive efficacy claims (confidence, self-reliance, and capacity) during their interview. These claims are often quite modest and fall short of the expectations theorists and practitioners articulate, particularly with respect to their scope. This suggests that a measured view about efficacy expectations is warranted. Nevertheless, they are frequent and significant enough to call into question a fully skeptical view of deliberation's educative potential.

3.3.1 Pre-existing Efficacy Claims

Because mediation is voluntary, this raises questions about how the characteristics shared in common by those who choose to participate in the mediation process relate to its educative outcomes. Indeed, the frequency with which participants offer information about their past training, work history and/or life experience in their interviews is striking. These statements are often made in direct response to questions about the educative effects of the mediation but are also at times offered as part of general descriptions of their experience. In the first instance, they seem to be offered as evidence of a prior familiarity with the techniques the mediation process is considered capable of teaching. In the second instance, they are mentioned as a general description of the participants' comfort and familiarity with the process but remain equally relevant to its educative potential. Pre-existing efficacy claims are made by a little more than half of the participants (52%).

These claims take several forms. In several cases, they are accounts of past training or experience specifically in the area of mediation or conflict management, for example through past involvement in a peer mediation program in school (Michelle), a workplace

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training delivered by one of the CDRs (Lisa), and even volunteering and interning at one of the CDRs (Anne).⁹⁵ Several participants also, or instead, reference their professional training and experience when asked about the educative effects of the mediation. For example:

Oh God. I've learned so many skills in my life, I've been dealing with, the public for years, I worked for [a large oil company] ... so I had to deal with, I had someone working for me, I worked for somebody, I had to deal with all levels, so I don't think I've had any trouble communicating or dealing with people.
(Martha)

Lynn: we can solve problems with anybody ...

Heather: So there wasn't any skills or anything like that, that came up in the mediation process that would, you would say that are helpful?

Lynn: nothing more than what I have used five zillion times in teaching in the last 45 years.

Some participants also reference their past or ongoing experience with counselling or therapy. Not surprisingly, given the therapeutic elements of the Toronto model of mediation, comparisons between mediation and therapy are made by 35% of participants. This suggests, among other things, that some participants see the educative potential of therapy and mediation to be related and even analogous. Christine and Norm both articulate these similarities. Rather than a direct reference to a therapeutic experience, both Christine and Norm (who are siblings and participants in the same mediation case) describe exposure stemming from the influence of their father's profession on their upbringing.

Well there's also the sort of mindfulness about syntax about ways of speaking, I mean I've always been sensitive to that, because I'm the daughter of a psychiatrist, so you know, being scrutinized a lot about tone of voice and the way things are said. (Christine)

⁹⁵ These connections are also central to the process of self-referral. Because CDR caseloads are relatively small, use of the service, especially when self-initiated, is often related to some direct connection between the participant and the CDR. The CDRs also do significant outreach in their community and as a result many participants learn about the service through police or managers of housing cooperatives when they seek to address their conflicts through these channels. In the tradition of the "community empowerment" CDR model, CRS and CMS-D do not take referrals to their community mediation program from the courts and as a result they rely on these formal and informal ties to intervene in conflicts either before they reach the courts, or to intervene in conflicts that are not likely to ever be addressed in court.

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I didn't think of it as alien to the family culture, because my father, was a psychotherapist, psychiatrist so this kind of you know skilled language a part of the family culture, and the use of language, and talking about problems, or talking about feelings, at length and depth was a part of the family culture.
(Norm)

Although it is difficult to identify with precision the comparative frequency of similar claims amongst people generally, it seems reasonable to conclude based on their occurrence and quality, that mediation participants are often entering the process with relatively high levels of skill and efficacy. This is hardly surprising given that the mediation process is voluntary, and therefore sure to include some form of "self-selection" participation bias. Indeed, it appears that those who find themselves in the mediations convened by CDRs are more likely to have professional and personal experiences that establish the kinds of capabilities mediation advocates seek to build.

The prominence of these pre-existing efficacy claims, in all their varied forms, is relevant for several reasons. While certainly not equivalent, these claims serve some of the same purpose that pre-mediation interviews would have served had they been possible.⁹⁶ Though they are certainly not objective measures of pre-mediation capabilities, they help to place individual efficacy claims in the context of participants' past experience. This context helps clarify what kinds of educative expectations make sense in any particular case. For example, such expectations will not be the same for a participant who has been formally

⁹⁶ As I described in Chapter 2, conducting pre-process interviews with participants was not feasible due to constraints presented by central features of CDR case intake process and principles. Time pressure to move the case into mediation and commitment to maintain participant confidentiality make accessing participants prior to the process challenging. Furthermore, CDRs often struggle to convince potential clients to attend the voluntary mediation process and are therefore hesitant to allow any additional intervention which might inconvenience parties or in any way motivate them to decline to participate in mediation.

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trained in or who has been practicing mediation for several years (to give an extreme example) and a participant who does not have relevant training or experience.⁹⁷

This insight relates to the argument sometimes made by skeptics of deliberation's educative effects that, in cases where participation is voluntary, participants are likely to be more efficacious and skilled to begin with than those who do not participate. This suspicion appears to be in part confirmed by the mediation participant narratives I heard.

Yet the predictive power of these pre-existing efficacy claims is limited because efficacy claims are advanced by both those who do and do not make pre-existing efficacy claims. In other cases, they are absent from the narratives of participants who both do and do not make reference past experience and skills. Table 3.1 shows that there is no obvious correlation between statements about pre-existing efficacy and subsequent efficacy claims attributed to mediation. It shows that 58% of participants make at least one positive efficacy claim (on the theme of confidence, self-reliance, or capacity) in their interview. It further shows that those participants are evenly split between those who also make pre-existing efficacy claims in their interview (26%), and those who do not (32%).

Table 3.1: Pre-existing Efficacy and Efficacy Claims

	Pre-existing Efficacy	No Pre-existing Efficacy	Total
Efficacy Claim	8 (26%)	10 (32%)	18 (58%)
No Efficacy Claim	8 (26%)	5 (16%)	13 (42%)
Total	16 (52%)	15 (48%)	31 (100%)

This suggests that there is no straightforward relationship between the presence of pre-existing efficacy claims and the efficacy effects of mediation. Furthermore, interviews did not probe specifically for past training and experience. Therefore, these claims illustrate the connections that participants themselves make between past experience and mediation's

⁹⁷ Though it must certainly be noted that a failure to report such experience does not necessarily mean it has not occurred- interviews did not probe explicitly for this information. Furthermore, what constitutes "relevant experience" is an important question on its own merits and one that I will turn to below.

effects on them, but they are not very useful as objective measures of the causal relationship between the two.

In addition to the empirical reasons for doubt, there are theoretical reasons to suspect that pre-existing efficacy claims have the potential to cut both ways in terms of their relationship to educative effects. On the one hand, if parties enter the process more capable than most, then the likelihood that they will experience change as a result of the mediation, a relatively brief intervention, is quite low.⁹⁸ On the other hand, while participants may get to mediation in part due to their familiarity with relevant skills and dispositions, their predispositions may also prime them for change. Interviews suggest that pre-existing efficacy claims function in both ways for participants.

But even if pre-existing efficacy claims help little to predict subsequent efficacy effects, their presence is instructive and suggests the need to reconceptualize educative effects. Mediators' descriptions about educative effects emphasize the view that people turn to mediation because they have limited capacity to manage conflict themselves. It is from this assumption that they make claims about mediation's educative potential. Furthermore, their expectations are based on the notion that extended conflict contributes to feelings of low efficacy, which are reversed as a result of a successful mediation experience. Both expectations contribute to an emphasis on self-reliance as an educative result of the experience. Pre-existing efficacy claims challenge these assumptions by suggesting that many participants are not only quite skilled to begin with, but also possess a general confidence in

⁹⁸ Arnold Kauffman made the opposite prediction in his reflections on "Participatory democracy: ten years later" (Kaufman 1969). Kauffman discusses the "paradox of participatory democracy" pointing out that if the developmental aspirations of participatory democracy are accurate then at the outset incompetent and irresponsible citizens will make bad decisions, until they are educated through their experience participating. A steep learning curve would mean that inexperienced citizens may not show the educative effects of the process immediately. Kauffman did not consider what appears to be the case with community mediation- that a voluntary process attracts a more sophisticated group to begin with. This may still, for different reasons, lessen the educative effect of participation, because participants are already near the top of the curve and therefore have a much smaller distance to travel in terms of their "development".

their ability to manage conflicts. Participants are therefore not oriented towards or receptive to the educative potential of the process emphasized by some theorists and practitioners. Setting aside whether or not the past experiences have or have not in fact equipped parties in the ways they believe, their claims suggest that their reasons for accessing the process are quite different.

I do not simply mean by this that parties seek out mediation to get solutions while mediators emphasize its transformative effects. Beyond that frequently observed disconnect, I find that parties often view their conflict as impenetrable with the tools in what they consider to be their already well-equipped toolkits. As a result, they often attribute the persistence of the conflict to some barrier presented by general circumstances or characteristics of the other party but not to their own failures or limitations. These barriers include things like language differences, mental illness, perceived unreasonableness, or incompatible values. Although this may not be surprising given social psychological theories of attribution biases such as actor-observer (Jones 1971; Malle, Knobe, and Nelson 2007)⁹⁹ and self-serving biases (Mezulis et al. 2004), it underscores a possible mismatch between the experience of participants and conventional notions about efficacy and educative effects.¹⁰⁰

In opposite cases, where efficacy claims are made alongside pre-existing efficacy claims, past experience appears capable of generating a readiness or openness to learn from the mediation experience. While it is rare for participants to describe a real educative agenda for themselves in the mediation, there are indications that the same qualities that make some more willing to manage their conflicts through a participatory deliberative process like

⁹⁹ Malle et al's meta analysis and recent research actually call into question the fundamental situation/disposition distinction upon which much of the theory of attribution biases rest. They do however continue to find actor-observer asymmetries that suggest people are more likely to attribute rational reasons for their own behavior than they are to the behavior of others.

¹⁰⁰ As I discuss further in Chapters 4 and 5, the reasons participants provide for accessing mediation also present barriers to the realization of interest and relationship expectations- which rely on the possibility of mutual understanding and affection being developed through mediation.

mediation in the first place also make them more likely to engage in reflection about, be aware of, and able to articulate the way the experience has influenced them in lasting ways. Because of the subjective quality of self-efficacy claims, this process of reflection may be as integral as the events of the mediation itself to the educative process.¹⁰¹ Thus, the prominence of pre-existing efficacy claims already suggests there are good reasons for reconsidering the efficacy expectations articulated by deliberative theorists and practitioners.

A final point worth noting about these claims is what they reveal about the kinds of previous experience and ability participants believe is relevant to their mediation experience. Of course there is little indication of this from those who do not make pre-existing efficacy claims. But those who do talk about their pre-existing competencies consistently relate them to interpersonal communication. For example, like Martha, Lynn, Norm and Christine quoted above, Sylvia makes a pre-existing efficacy claim that relates directly to her interpersonal communication skills when she says “I don’t think I had such a bad, skills, interpersonal you know like how to deal with conflict.” Put simply, if participants’ pre-existing efficacy claims are focused on dynamics of interpersonal communication, this suggests that we can expect most subsequent efficacy claims to center around these capacities as well. Competencies in interpersonal communication appear to be most salient for participants following their mediation experience. These conform partially to practitioner efficacy expectations. As I discuss below however, mediation participants place a greater emphasis on relational dynamics and interdependence than we might anticipate based on practitioner emphasis on self-determination.

¹⁰¹ For further discussion of mediation’s capacity to actually generate this lasting disposition towards self-reflection, rather than simply attract participants who already possess it, see Chapter 4.

3.3.2 Confidence Claims

I code participant comments as “confidence claims” when they reference feelings about possible future conflict and include descriptions of a general approach or intentions for managing future conflict situations. This category includes a range of statements, but is intended to capture the relative optimism or pessimism participants express concerning specific and generalized future interactions.¹⁰² Table 3.2 provides a summary of the range of confidence claims found in participants’ narratives. In the left most column, I include the total number of participant narratives that contain one or more “high” confidence claims. They are labeled “positive” because they suggest that the mediation experience has a positive effect on participant confidence. In the middle column, I include totals for both the “low” and “none” confidence codes. They are labeled “neutral” because, as I explain below, they do not suggest that the mediation experience has had any effect on participant confidence. In the right most column, I include the total number of participant narrative that contain negative confidence claims, those suggesting that the mediation experience has actually had a negative effect on participant confidence.

Table 3.2: Participant Confidence Claims¹⁰³

Positive (32%)	Neutral (67%)		Negative (3%)
High 10 (32%)	Low 7 (22%)	None 14 (45%)	1 (3%)

In a little less than one third of participant interviews (32%), I find “high” confidence claims that link an increased sense of confidence to the mediation experience. In a few cases, these claims match strongly the ideal espoused by theorists and practitioners. Participants

¹⁰² I categorize separately, and describe in the next section as “self-reliance” claims, those comments that specifically address intentions regarding reliance on third parties to intervene in future conflict interactions.

¹⁰³ Percentages are calculated based on the total number of participant interviews (31). Totals exceed 31 because occasionally participants make multiple efficacy claims. For example, Dalia makes both a “low” and “high” confidence claim, resulting in a total of 32 confidence claims listed in the table. The presence of competing confidence claims in a single participant narrative is limited to this one case. Therefore, although the categories I present are not mutually exclusive, this suggests they each capture fairly distinct outcomes.

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describe the mediation as a turning point from which they acquired a strengthened sense of confidence in their own conflict competency. This conflict competency is described in ways that is generalized and relates to an overall sense of self-confidence with potential to positively influence behavior in a wide range of contexts. Confidence claims from Lisa and Sara appear to fit in this mould:

Just started to deal differently with people, I just feel better about the way I handle situations, I felt better about, just feel better about how I deal with things. And, you know and that makes me feel better about me. (Lisa)

I learn a lot from her [the mediator], so I can do better [than] before, I can control the situation. I can explain to the person before it's happened badly, I can do much better than before. (Sara)

In the other cases, positive confidence claims are less sweeping and focus specifically on expected future interactions with the conflict partner directly involved in the mediation experience. In these more limited cases, participants describe a strengthened confidence in their ability to talk to their conflict partner directly when future issues arise. An example of this is when Jeffrey says “I think we’ve got a door open now to actually invite them over” when talking about his mediation conflict partners.

The remaining two thirds of participants are split almost evenly between those who make no confidence related claims and those who make claims that indicate low confidence. Those narratives where no confidence related claims are made (45%), suggest that mediation has no effect on participant confidence. When low confidence claims are made (22%), they register pessimism or uncertainty about future interactions or intentions to avoid those interactions at all costs. Low confidence claims are typically made in two reoccurring mediation contexts. First, they occur in neighbor disputes where the mediation ends with the physical relocation of one party or deliberate avoidance on the part of all.¹⁰⁴ Second, they are

¹⁰⁴ I return to these cases in my discussion of relationship effects in Chapter 5.

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common in complex and long standing family disputes where substantive matters are not resolved and relations remain strained following the mediation. In these cases however, participants do not ‘blame’ their low confidence on their mediation experience, but instead suggest that pre-existing low confidence has gone unchanged as a result. For example, Lauren stresses that her low confidence in her ability to confront her siblings directly has to do with their shared history and not what happened in the mediation specifically:

I don't know if we'd be able to come together. I think it would just be this mess, out of you've got like six people all reacting really differently. ... But it's also the potential for explosiveness and just you know, really ugly old shit coming up, that can be really difficult for some people to deal with. Myself included.
(Lauren).

I therefore group the “low” and “none” confidence claims together as “neutral” to indicate that 67% of the time, participants do not provide evidence to show mediation influenced participant confidence. This highlights that in those rare cases where the mediation experience does influence confidence, it almost always does so in a positive way (see Lisa, Sara, and Jeffrey above).

That is not to rule out entirely the possibility that the mediation process itself can actually generate negative confidence claims. The possibility of such an effect is hinted at, if not explicitly described, by critics of participatory deliberative processes (Young 2001, Sanders 1997). The inability for such processes to balance power or protect rights can be quite credibly predicted to have lasting negative impacts on participant efficacy. Indeed, Loretta's case, while exceptional amongst the narratives I heard, illustrates clearly that a negative mediation experience can have lasting and negative effects that are expressed through negative confidence claims.¹⁰⁵ She describes the lasting effect this way:

It affected me because I have bias of people, I cannot trust people the same ... certain kind of people. When somebody's offering me a service I doubt and I

¹⁰⁵ Loretta's confidence claim also touches on themes of social trust, which I will return to in Chapter 5.

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think hum... I don't sign anything, I don't say anything, I am very careful what I say, I'm very careful. I don't use my feelings. I don't think that I have to help because it's not worth it. (Loretta)

Although her statement here does not make it clear what features of the mediation experience resulted in these lasting negative feelings, in other parts of her interview Loretta describes feeling pressured by the mediators and the other party to participate in the mediation and to reach an agreement she did not consider to be in her best interests. This account suggests that if participants experience the process as coercive, it can have lasting negative effects on their sense of confidence in their ability to manage similar future experiences - a clear example of a complete breakdown in the educative potential of mediation.¹⁰⁶ But of the cases I explored, Loretta's stands out as an exception. Hers is the only narrative containing a negative confidence claim, as is shown in the right most column of Table 3.2. Furthermore, if her account of mediator behavior is accurate, it suggests that negative effects on efficacy can be avoided largely through mediator training and oversight intended to keep practice consistent with the CDR's mission and goals.

To sum up, 13% of participants make confidence claims that suggest their mediation experience strengthened their confidence about future conflict interactions in general, while 19% make claims that suggest their mediation experience has, in more limited ways, increased their confidence that future interactions with their mediation partner(s) can be managed successfully for a total of 32% of participants reporting a positive effect of mediation on their confidence. 22% of participants express pessimism about this after mediation and 45% make no specific claims concerning confidence at all, suggesting that

¹⁰⁶ While I argue throughout this chapter that self-determination with respect to outcomes is less salient for participants than it is for practitioners, this negative example underscores the reasons why self-determination is an important feature of the process. While educative effects may not flow automatically from the process's commitment to self-determination as efficacy expectations imply, a departure from this commitment in the process does have potential negative effects that appear likely to have lasting salience for participants.

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67% of participants experience no effect on their confidence as a result of mediation. Only 3% of participants attribute a negative effect on their confidence to mediation. Aside from the direct effect of mediation on confidence, over half of participant confidence claims (both low and high) are concerned with the particular relationship with which the mediation dealt. As I will elaborate in section 3.3.5, this suggests that in most cases the mediated relationship remains the most salient feature of the experience for participants and that any effect on confidence is unlikely to be transferred or generalized by participants.¹⁰⁷

What is most striking in the analysis of participant confidence claims however, is not so much that they occur less frequently or strongly than efficacy expectations suggest but that they actually downplay self-determination in favor of interdependence. Practitioners stress that “being empowered to make decisions” is central to the expected efficacy effects of the experience. That participants often express a measured degree of confidence about future interactions underscores their expectation that future experiences are dependent on the actions of others as well as to their own individual competencies. Though in a few cases participants describe confidence in terms of individual autonomous action, the mediation

¹⁰⁷ Furthermore in the one case where the most compelling generalized confidence claims are made Lisa describes the mediation as a catalyst in a long history of efforts to build self-efficacy:

Lisa: I don't give up on things as quickly.

Heather: and why would you say that is

Lisa: it's when you're asking the question about control, my mindset is different. I do have more control, it's just the way I deal with it. It's the way I look at it. It gave me more confidence in my abilities to deal with the situations. But then I also know it's this parent and youth group and so many years and my whole bedroom is self help books, and I started reading Dear Abby when I was twelve

Heather: ha ha

Lisa: You know, but I, I would say that that's a crucial, crucial thing you know cause I handled it, I handled it differently.

And later:

Lisa: It's just that, it's just a different attitude. And I can handle things better.

Heather: and do you feel like it was the experience with mediation that changed that for you?

Lisa: I'm not going to give it all of it, because this has been like, this is an ongoing process but it definitely was like if you want to talk about like a crucial, a crucial point, that would have been.

While the possible role of the mediation as a catalyst in this regard should be encouraging for those seeking to have educative effects, the independent educative potential of the mediation process should not be overstated based on this account and, as I argued in my discussion of pre-existing efficacy claims, calls into serious question a notion of educative effects that views mediation as a remedial experience.

experience more often makes salient their position as relational beings who are limited in their ability to control the actions of others.

3.3.3 Reliance Claims

In addition to a sense of confidence in one's ability to manage interactions, the efficacy expectations of mediation practitioners stress the theme of self-reliance. They hope the mediation process will leave participants determined and equipped to be self-reliant in their future interactions. This is usually articulated by practitioners as a desire that people will not need "to come back" or "use the service" again. More generally, it is a desire to see parties capable of and intending to manage difficult interactions in the future through *independent* direct communication without the involvement of mediators, police, courts or other third parties. In participant interviews, I probed this topic in an effort to explore the potential of the process to lead to these kinds of efficacy claims. A summary of self-reliance claims are shown in Table 3.3.

Table 3.3: Participant Self-Reliance Claims

Positive (52%) ¹⁰⁸		Neutral (48%)	
Self-Reliance 4 (13%)	Fall Back 13 (42%)	First Resort 4 (13%)	None 11 (35%)

The right most column shows that about one third of participants make no self-reliance claims, suggesting that mediation has no effect on their self-reliance. The other three columns however, show that the remaining two thirds of the participants make some form of reliance claim during the interview- though not all are categorized as "self-reliance". Four participants suggest that they will manage similar conflicts in the future through reliance on

¹⁰⁸ The percentage total for "positive" self-reliance effects do not match the combined total of "self-reliance" and "fall back" claims because Alan makes a self-reliance claim that is specific to his relationship with Lisa and a fall back reliance claim that is more general. The presence of multiple self-reliance claims in a single participant narrative is limited to this one case. Therefore, although the categories I present are not mutually exclusive, this suggests they each capture fairly distinct outcomes. I adjust the total in the "positive" cell so as not to overstate the proportion of participants who experience positive self-reliance effects. In all cases percentages are calculated from the total number of participants (31).

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police, courts, or mediation. I call these “first resort” reliance claims because they suggest, contrary to self-reliance expectations, that participants leave mediation intending to turn immediately to third parties to intervene in their future conflicts. While two first resort claims reference police and courts, the other two refer to mediation. For example, Sylvia describes how she intends to deal with her neighbor Victor if future conflicts arise:

But there are problems you don't have to have them in your life. You have to find out how to get rid of them. And this is my point. I don't have to have him in my life. So I would ask the mediation again for that. (Sylvia)

When participants express an intention to rely on police and courts as a “first resort” for their conflicts, this suggests unambiguously that mediation has not had the desired self-reliance effect. The same is true for first resort claims that reference mediation, like Sylvia's. While the mediation process may be and may continue to be instrumentally valuable in such cases, it does not appear that it has contributed to building participant's efficacy according to practitioners' educative expectations.¹⁰⁹

At the other extreme, just four participants make reliance claims specifying that they do not need further assistance from mediators and will manage future conflicts independently. I call these “self-reliance” claims because they conform to the self-reliance expectations of practitioners. Though they are rare and quite tentative, they suggest that the mediation experience did contribute to participants' self-reliance to some degree in a small number of cases. For example:

And we kind of agreed, it's like do we need another mediation, no, and even the mediators said like well you guys are, I mean you guys can handle things.
(Jeremy)

¹⁰⁹ Such outcomes relate to those I discuss in Chapter 5 where I focus on the effect of mediation on participant relationships. There I discuss the habits of avoidance adopted by some mediation participants and the role of the mediation process in facilitating such habits and relationships. Sylvia's comments are indicative of this kind of avoidance.

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All four self-reliance claims, like Jeremy's, are made with reference to future interactions with mediation conflict partners specifically. I did not find evidence of more generalized self-reliance effects in the participant narratives.

The largest proportion of reliance claims fall within a middle category, between “self-reliance” and “first resort”, that is characterized by a description of a desire, intention, or openness to return to mediation in the future. I call these “fall back” reliance claims and find them in 42% of the mediation participant narratives. These kinds of reliance claims are sometimes specific to the relationship or issues already managed in mediation, and sometimes expressed in general terms about possible future conflicts with others. While this type of learning, about the process and its possible future value comes up frequently from participants in response to questions about mediation's educative effects, these are not the favored outcomes described by mediation practitioners. Practitioners tend to view this as a “second best” outcome, describing total self-reliance as the full realization of educative potential. Though an intention to “fall back” on mediation is characterized as sub-optimal by practitioners, it appears to be offered by participants as an example of constructive learning and positive evaluation of the mediation process and service. In fact, these reliance claims even occur in cases where the mediation experience is considered a failure overall by the participant. Despite these judgments, participants report an openness to consider the process for different situations they may encounter in the future. Certainly, for an organization in the business of service delivery fall back reliance claims should be celebrated as indicators that participants are satisfied with the service they received and prepared to make use of it again.

Taken to their extreme fall back reliance claims might be viewed as evidence that CDRs operate, contrary to their emphasis on self-reliance, in a way that builds greater

demand for their services.¹¹⁰ This would certainly be a rational strategy from the perspective of institutional survival, and indeed CDRs dedicate significant resources to increasing their caseload through community outreach and cultivation of relationships with possible referrals sources. Still, examination of the Toronto CDR caseloads reveals that very few participants actually do become “repeat” service users by returning to mediation again after their initial case concludes. So if participants rarely follow through on their expressed intention to fall back on mediation in the future what is the significance of their frequent reliance claims?

These illustrative fall back reliance claims will help to answer this question:

I learned that mediation is a good thing and I shouldn't, literally, honestly that I wouldn't be adverse to it at all, I would go gladly to it. I think it would be a benefit, whereas initially I thought what the Hell, I don't need a mediator.

(Alan)

The skills I would learn is that dealing with people in the conflict situations, first you try to do it yourself, if you can't do it, get help. And one of this help will be in a mediation services. That's what I think I learned from this. (Victor)

Heather: and what do you think if you guys try to do that without the mediators, how confident do you feel about trying that?

Michelle: ... I think it would work out well probably in the beginning but when we got to some of the harder issues, I don't know how long it would last. So I think maybe we would have to have someone present for that. (Michelle)

Fall back reliance claims like these suggest an appreciation for the mediation service and an intention to seek it out again if necessary. Victor and Michelle's statements in particular imply that reliance on mediation would result only after serious efforts at direct communication. Fall back reliance claims may also suggest that awareness about the existence of mediation emboldens participants to manage interactions on their own in part because they know that the “safety net” of mediator intervention is not far away.¹¹¹ This seems to be what Christine is getting at when she says:

¹¹⁰ The two instances of “first resort” claims that reference mediation noted above might also support this view.

¹¹¹ I thank Jane Mansbridge for this insight.

I would procrastinate less about putting it into motion. I would probably, I think I would be one of the first people to say we need to do this. I think we need to do this and who else is willing.

I think yes, I think we could, I think we could, I mean it would be worth trying, it would be worth trying you know having a meeting and trying, and I think the thing is, I think very quickly, ... I think we would quickly figure out if it wasn't working and if we needed to actually seek out some, some assistance from outside. (Christine)

Particularly when participants make fall back reliance claims in combination with confidence and capacity claims,¹¹² there is evidence of modest efficacy effects that are attributable to the mediation. Fall back reliance claims on their own also indicate that participants feel some minimal sense of efficacy from simply knowing that the mediation service exists, even if, in reality, they are very unlikely to seek out the service another time.

These findings suggest that self-reliance may not be a very helpful way to conceptualize efficacy effects. The notion of self-reliance, as expressed by theorists and practitioners, is strongly linked to the principle of self-determination. But because self-determination is not as salient a feature of the process for participants, an emphasis on self-reliance may lead to a misunderstanding of mediation's most consistent and desirable lasting effects. Contrary to self-reliance aspirations, these effects may in fact be expressed in part as the intention to rely on mediation again in the future.

3.3.4 Capacity Claims

A third type of efficacy claim in participant interviews are capacity claims, those in which participants describe specific skills they have acquired and/or applied as a result of the mediation. Practitioners stress these kinds of effects in their narratives about mediation's educative potential. While participant capacity claims are of course subjective and do not substitute for objective measures of participants' actual capacities, they provide concrete

¹¹² Participants in that category include Christine, Anne, Lisa, Michelle, Rita, and Victor. See Table 6.1 for more details summarizing educative effects by individual participant.

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examples of the way participants conceptualize the educative effect of their mediation experience. They indicate conceptual understanding of relevant techniques and skills, although they are not necessarily indicators of practical mastery or behavioral change. Interviews probe for experiential accounts of skills application to better assess the meaning of capacity claims. Even when such accounts are not offered however, participants' subjective accounts of the effect of mediation on their capacities shed light on the educative potential of the process. Table 3.4 summarizes participant capacity claims.

71% of participant narratives are located in the “neutral” capacity claims column. This includes those participants who make no capacity claims (“none”), and those who explicitly respond to questions stating that they did not learn any skills (“no skills”). Though I code interviews in their entirety looking for capacity claims, these are most often made in response to open ended questions about learning or in response to specific a probe about skills. These results suggest that, for the majority of participants, mediation does not have an effect on their perceived capacity.

Table 3.4: Participant Capacity Claims

Positive (32%) ¹¹³		Neutral (71%)	
Listening 8 (26%)	Assertion 5 (16%)	No Skills 4 (13%)	None 18 (58%)

As the left column of Table 3.4 shows, however, about one third of participants do make at least one kind of positive capacity claim. These claims provide evidence that, in

¹¹³ The percentage total for “positive” capacity effects do not match the combined total between “listening” and “assertion” claims because three participants narratives (Christine, Lisa, Michelle) include both listening and assertion claims. These categories are not intended to be mutually exclusive nor is it surprising that they are correlated in some participant narratives (10% of participants make both listening and assertion claims). I adjust the total in the “positive” cell to include the proportion of participant interviews that contain at least one capacity claim so as not to overstate the proportion of participants who experience positive capacity effects. An additional discrepancy in the totals is generated because Anne makes a “listening” capacity claim and a “no skills” capacity claim in her narrative. Although Anne says she does not believe she learned skills, elsewhere she makes a listening capacity claim in her interview. This level of ambivalence with respect to capacity claims is unique to her interview, suggesting that the categories I present here generally capture the range of outcomes with respect to capacity.

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some cases, the mediation experience positively effects participants' perceptions of their capacities. I find two kinds of positive capacity claims- "listening" and "assertion", which correspond to the themes stressed by practitioners. Listening claims, illustrated by the two excerpts below, are the most common and are found in 26% of participant interviews.

There have been a few times where I felt that I've been able to do it, in a sense, invite someone to explain or invite someone to express his or her point of view in order to achieve a deeper understanding of what's going on even if it's painful or if it's not what I agree with but to achieve it. So, in a sense I think yeah, that I'm able to integrate some of those techniques, at least periodically, if not all the time. (Christine)

Maybe it's improved my listening skills a little bit, when I'm in meetings I'll listen better, listen to what the other person has to say and try to wait it out, until they're finished before jumping into it. Or just make sure I've heard them correctly, maybe ask them a couple questions to clarify it. (Alan)

Like the confidence and self-reliance claims previously described, capacity claims are sometimes articulated in generalized terms, and sometimes in terms more specific to the mediated relationship. Unlike those claims however, which are more commonly expressed in specific terms, capacity claims are more likely to stress transfer into other contexts and settings. When prompted, several participants describe particular instances of application to other areas of their lives, as Alan does above when he expresses his belief that his behavior at work may have changed as a result of the mediation with his ex-spouse. Capacity claims like these suggest that the mediation experience does, in some cases, teach parties about the technique known as reflective listening, active listening, or mirroring. Alan and Christine describe learning to listen in a way that involves asking open ended questions, listening carefully for response, repeating back to the other person what they have heard, and asking for confirmation that the message has been understood. This appears to be linked to the

parties' experiences with "phase two" of the mediation process where mediators explicitly ask parties to speak, paraphrase, and acknowledge understanding to each other.¹¹⁴

While the listening side of interpersonal communication is the most common positive capacity claim, some participants (16%) also report learning or improving their "assertion" skills. Assertion capacity claims describe an improved ability to manage one's emotions and speak to others about one's needs in non-confrontational ways.

Low tones are more conducive. The minute I start to feel too much emotion, it's not the right time. (Lisa)

I think I improved my ability to articulate my needs. ... the fact that I persisted to the point that I did was actually progress for me ... Usually I back down much sooner. ... I always have that conflict, as a woman too you know that I'm usually the one that gives in. I don't know if it's as a woman or my personality. (Beth)

Interestingly, "assertion" capacity claims, though small in number are all made by women in mediation with family members or intimates. As Beth's comments suggest, this may be related to features of female moral development and dominant communication styles among women that can make asserting one's own needs a more challenging task (Gilligan 1982; Tannen 1991).

Although mediators specifically mention "I-statements" when talking about teaching assertion in mediation, participants describe their capacities in less structured terms. This is not surprising since the mediation process is not structured to actually guide parties through the "I-statement" formula in the way that "phase two" explicitly walks the parties through the "reflective listening" technique. While mediators differ in their approaches, and some may introduce the "I-statement" technique directly, interviews and observation do not reveal this as a central feature of the step by step process typically followed. This relates to the questions raised at the end of Section 3.2 about whether mediators indirectly model or

¹¹⁴ For a detailed account of the mediation process used at Toronto CDRs see Section 2.7 in Chapter 2.

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overtly teach skills during the mediation process. Exploring this question further through an analysis of participant capacity claims can help to clarify what process mechanisms might generate these educative effects.

Participatory theorists and practitioners expect the first two components of efficacy, confidence and self-reliance, to follow fairly basically from a positive experience with self-determination. Although this is an expectation, I have argued above there is some reason to question, it is nevertheless widely shared among practitioners. As I discussed earlier however, mediators' accounts about the mechanisms that generate capacity claims vacillate between the merits of modeling and overt teaching in the mediation process. While participant accounts cannot entirely resolve this ambiguity, examining them can shed light on how parties experience the educative mechanisms of the process. This will help to illuminate why some participants appear to build deliberative capacities during the process, while most participants do not.

In a few instances, participants describe learning skills as a result of direct instruction from mediators. For example, in the quotes below, Michelle suggests that the mediators made direct observations about patterns of communication and suggest alternatives, whereas Christine suggests that mediators lead participants (in this case a group of five) through role playing exercises unrelated to the conflict and ask them to practice particular techniques.

One of the things they were telling us is that I don't know, it's just something about the way we communicate like we're not paying attention while we're doing it. (Michelle)

They were providing us with exercises to help with productive performance of communication ... we were given scripts at certain points with certain key phrases to use. I don't know if I remember. I mean one of them might be you know if I hear you correct, if I'm hearing you correctly, what I understand you to be saying is this, am I, you know am I correct and, you know those kinds of things. (Christine)

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While such overt teaching in mediation, particularly as it arose in Christine's case in exercise form, seems to be exceptional, other participants link their capacity claims to the communication techniques modeled in less overt ways by mediators.

I think that's kind of what they do, they have to listen to both sides, and sort of sit there and go well this is what I hear Alan saying and this is what I hear Lisa saying, what do you think? They're doing a lot of listening throughout the whole process. We're all forced to listen to each other in that process. (Alan)

Modeling was going on. An immense amount of modeling was going on. (Lisa)

I seen it the way they [the mediators] are talking to us, ... So, everything I learn I just learned from them. (Sara)

The result is that participants occasionally articulate their capacity claims, particularly in terms of listening, in ways that imply they have learned to "be like the mediators".

Julie: There's been a couple of times when I've been at different committee meetings, and different things that I've been on where I think I kind of, acted like a mediator ...

Heather: So then do you feel like you consciously applied that from the experience?

Julie: Probably, because of having been so fresh, you know this was just a couple of, I'm just thinking a couple of things over last winter where you know it would have been fresh in my mind because I was going through it. (Julie)

While participants identify these mechanisms and link them to their capacity claims, they also openly discuss their difficulty in isolating the educative effects of their mediation experience. For example, Evelyn says she finds the educative effects of mediation "hard to tease out." And when discussing the skills she has acquired Beth says "it's very hard for me to determine how much was due to that mediation."¹¹⁵ Such skepticism is often linked in interview narratives to pre-existing efficacy claims. Participants also attribute their capacity claims to mediation by describing it as a "refresher."

They were good reminders that I had done some therapy work with a former partner a few years before and we had to do a lot of mirroring. So I had learned

¹¹⁵ In Chapter 6, I discuss the challenge of isolating the effects of the mediation experience and distinguishing them from effects of the overall conflict experience further.

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about that technique then and it's very, it's so valuable, and it's difficult too I think, still it's something that one has to continue to practice. (Christine)

Therefore capacity claims in mediation, although relatively rare, seem to result from direction given by mediators, indirect modeling on the part of mediators, and perhaps most importantly, by reminding parties of skills and techniques they already know.

This range of educative mechanisms is also described by participants who do not make capacity claims. This suggests that even when participants do not experience capacity effects, this is not from want of trying on the part of mediators. Furthermore, it shows that participants are not obliviousness to practitioner efforts to generate capacity effects. For example, Lynn observes, but completely rejects, mediator efforts at skill building during the multi-session process.

So we didn't feel we needed any training in being good neighbors.¹¹⁶ But that's what the idea of the last meeting was. (Lynn)

Her dismissiveness may not be surprising given the strength of her pre-existing efficacy claims, which are cited in Section 3.3.1 above. Though Lynn's vehemence is exceptional, she is not alone in noting the failure of mediator attempts to teach skills. For example, while Norm notes the potential for the mediation to reinforce or refresh his pre-existing skills, he gives an uncharitable account of the mediation's ability to build his capacity.

What remains for me is the familiar process of, you know, if I say something, the other person repeats back what I said, things like that, making I statements, a deliberate, uncomplicated, communication process ... Those stay with me and I guess I'd already been acquainted with them and so it was just another opportunity to remember those and try them out again. But also to reflect on their limitation. (Norm)

¹¹⁶ The sort of umbrage taken by Lynn suggests that in some cases the disconnect between mediator and participants expectations of the process can result in frustration. This has implications for the debate about process control and educative aims because it suggests that mediators who pursue their educative goals by heavily structuring participant communication risk alienating parties from the process.

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Norm suggests that the mediation did not build his capacity because, rather than illustrating the value of these skills, it actually highlighted their limits. This stands in contrast to Christine, quoted above, who claims that the mediation did successfully rejuvenate her pre-existing grasp of listening and assertion skills. This again highlights that pre-existing efficacy claims do not necessarily determine positive capacity claims. Moreover, a certain degree of introspection is common to participants who make capacity claims, though some of the most introspective participants (for example, Norm), do not make them. Finally, while capacity claims are more common in cases where the overall account of mediation is a positive one, they do sometimes emerge from fairly negative mediation narratives. For example, Beth's negative experience with guided reflective listening does not prevent her from feeling that she improved her assertion skills,¹¹⁷ which she links to her experience in mediation (see excerpts from Beth above).

Therefore, while a range of educative mechanisms (teaching, modeling, refreshing) are identified by participants, and a number of participant characteristics appear relevant to the success of these mechanisms (introspection, positive mediation experience, pre-existing efficacy), no clear pattern emerges about what, beyond an experience in mediation, produces capacity claims. In general, my analysis of participant narratives suggests that although capacity claims fall short of practitioner expectations in terms of frequency and depth, they nevertheless mirror those expectations in their focus on communication skills and techniques.

¹¹⁷ In fact, although she doesn't say so, it is possible that it is *because* the part of mediation which emphasizes listening failed in her case that she was forced to focus a great deal on her assertion skills in effort to get her message across to a party who she felt was not hearing her. "The mirroring, mirroring back what I said, as I mentioned, the tone of voice he took on and also when he played me, it was hurtful and it indicated that he didn't hear what I was saying in the mediation" (Beth).

3.3.5 Scope of Participant Efficacy Claims

Overall, I find that about half of the mediation participants I interviewed reported at least one kind of positive efficacy effect (confidence, self-reliance, capacity) resulting from their mediation experience. Yet, as I have described above, these efficacy claims are often quite modest and limited in their scope. I characterize the scope of positive efficacy claims by coding each as either “specific” or “general”. This distinction draws attention to the transfer potential of educative effects. As I noted in Section 3.2, practitioner efficacy expectations suggest that generalized efficacy effects are built as a result of their transfer beyond the specific context where they are acquired. According to this assumption, the strength of efficacy effects can be determined in part by the degree to which efficacy claims are articulated in generalized terms.

For confidence, this means that participants are expected to feel a greater sense of confidence in their ability to interact with their mediation partner(s) (specific), and this in turn transfers to greater confidence in their interactions with others more widely (general). For self-reliance, there is a distinction between a participant’s intentions concerning ongoing interactions with the conflict partner (specific), and their intentions concerning other conflicts they will encounter (general). With respect to capacity, the expectation is that participants have the experience of applying and practicing a set of techniques with their mediation partner(s) during the process. Specific capacity claims indicate an ability to apply these skills in future interactions outside the mediation with those same mediation partner(s). A further step is to recognize and apply this technique as a transferable skill in other contexts of daily life. In each case, the element of “transfer” from the specific mediated relationship(s) to a generalized application is considered central to reaching full educative potential.

Table 3.5 summarizes the scope of participants' confidence, self-reliance, and capacity claims. It shows, as I have noted in the preceding sections, that confidence and self-reliance claims are more likely to be specific, while capacity claims tend to be made in generalized terms.

Table 3.5: Scope of Participant Efficacy Claims

	Confidence			Self-Reliance			Capacity		Total Efficacy
	High	Low	Negative	Self	Fall	First	Listen	Assert	
Specific	6 (60%)	5 (71%)	-	4 (100%)	6 (46%)	1 (25%)	1 (13%)	1 (20%)	24 (46%)
General	4 (40%)	2 (29%)	1 (100%)	-	7 (54%)	3 (75%)	7 (87%)	4 (80%)	28 (54%)

The far right column includes a breakdown of all efficacy claims and indicates that almost half of participant efficacy claims (46%) are specific to the mediated relationship.¹¹⁸

My analysis suggests that these specific efficacy claims are some of the most compelling. The specific efficacy claims below from Christine about confidence and from Michelle about capacity illustrate this.

I mean I, I feel more confident with him. ... I often felt sort of judged by him or insecure or like uncomfortable or nervous with him. ... I have more confidence within the relationship too I think. (Christine)

I kind of think back to when we're here unless it's something really, really big then. I don't yell anymore because I couldn't yell when I was here, right, so. And like I said when we're, if it's like a really big fight then no, all that stuff kind of goes out the window. But like if it's something calm and we're just dealing with a small issue, then we kind of replay what happened here, we don't set out all rules and stuff but it's kind of like well you talk and I'll listen and then I'll talk and you listen, so. We still get interruptions every once in a while because there's nobody there telling us, you know not to do it. But, we try. (Michelle)

Specific claims like these are worth noting because they shed light on the kinds of lasting changes that we might realistically expect to follow from mediation. Rather than viewing specific claims as an indicator of partial or suboptimal effect, capacity claims like Michelle's

¹¹⁸ Here I count the total number of efficacy claims without reference to the number of participant narratives. Because some participants make efficacy claims in multiple categories, the total number of positive efficacy claims is 24 while the total number of participant narratives that include at least one positive efficacy claims cited previously is 18.

and Christine's emphasize that the experience has had important effects on the ongoing dynamic between she and her conflict partner. This draws attention to the ways that the mediation experience may shift dynamics within particular relationships without necessarily having measurable effects at the individual level. In these accounts, it is not so much individual efficacy or skills that have changed, but rather that the habits of interaction that exist between two or more people have been altered by the mediation experience. Another indication of this is that specific efficacy claims are sometimes offered in explicitly relational or collective terms. For example:

This time too if it wasn't working I'd go ok, it's not working because of something that we are both doing. (Lisa)

I don't think we need the mediation part, yeah I think we know how to do this now. (Evelyn)

Both Evelyn and Lisa use "we", and describe a change that highlights the need to manage conflict and collective decision making in the context of relationships with others. When combined with the observation that participant narratives place little emphasis on the importance of self-determination in the process, this suggests that the efficacy category does not capture a relevant set of lasting changes that can occur for participants. The interpersonal context of these conflicts makes clear how little collective decision making has to do with individual autonomy for participants. According to participants' post mediation narratives, relationships and their related emotional content are much more important to the process. I will explore these elements further in Chapters 4 and 5.

3.4 CONCLUSION

In sum, efforts to build the skillful citizen through the community mediation process yield positive results, but these results do not always conform to the expectations of theorists and practitioners. Though skeptics of educative effects can rightly point to the

prominence of pre-existing efficacy claims and the absence of efficacy effects in about half of participant narratives, this does not tell the full story of mediation's educative potential. A small but notable number of participant narratives suggest that previous familiarity with, exposure, and openness to the competencies that mediation is designed to strengthen can serve to prime individuals to experience some lasting efficacy effects. Furthermore, in some cases participants who make no pre-existing efficacy claims also attribute efficacy effects to their mediation experience. While these educative gains do not resemble the stark shift from "conflict dunce" to "conflict expert" that is implied by mediator narratives, these participants make convincing claims about strengthened confidence and capacity resulting from their mediation experience. Similarly, while reliance claims do not stress *self*-reliance the way mediators hope, "fall back on mediation" reliance claims are consistent with a more measured account of mediation's capacity to strengthen participant efficacy.

Overall, these effects do not appear to follow from the salience of self-determination in the process, something that mediators stress far more than participants in their accounts. This misalignment, which is reinforced by the prominence of specific efficacy claims and relational themes in participant narratives, draws attention to changes that are not adequately captured by the efficacy category. I will explore these changes further in my discussion of interests in Chapter 4 and relationships in Chapter 5.

Chapter 4

Community Mediation & Interest Clarification Trying to Build the Reflective Citizen

4.1 INTRODUCTION

In this chapter, I focus on *interests*, the second of three categories for conceptualizing deliberation's educative effects that I proposed in Chapter 2. As I noted there, deliberative and participatory theorists describe the process of 'interest clarification' as a central goal of deliberation. Jane Mansbridge has been a key theorist in developing the concept of interests and articulating its importance to deliberative and participatory forms of democracy. Interest clarification expectations suggest that participants come to a better understanding of their interests as a result of deliberative participation. While maintaining this view, Mansbridge has sought to distance her conception of interests from notions of a fixed and objective construct that can be revealed or discovered. She also rejects the opposite extreme, that any expression of preferences is necessarily consistent with a person's interests. She therefore seeks to distinguish between pre-reflective preferences and enlightened preferences. Enlightened preferences are those that approximate what a person would choose if they had complete knowledge of the consequences (for themselves and others) of all possible choices. Deliberative participation is expected to help participants clarify their interests and develop enlightened preferences because it provides participants with an opportunity to discuss their own and encounter other perspectives on one or more particular issues, problems, or conflicts (1983; 2006).

Theories of interest clarification have grown increasingly complex to acknowledge the value of clarifying both self and other regarding interests. As Mansbridge notes:

It is admittedly not easy to explore commonalities collectively, remain open to transformation, and forge a common good while at the same time exploring and

keeping an appropriate grasp on one's own self-interest and potential conflicting interests. But the task is neither impossible or a contradiction in terms. It is, in fact, the ideal.

(Mansbridge et al. 2010, 79-80)

Though the appropriate balance between self and other regarding interests is a difficult one to identify abstractly, all interest clarification claims suggest that deliberation assists participants to become more reflective to some degree about their own interests as well as the interests of others, and in so doing to develop a capacity that is crucial for democratic citizenship. Among several ways proposed for testing deliberation's success at generating these shifts in understanding and their associated dispositional shifts, Mansbridge suggests we turn to "the reflective conclusions of those who have changed their understandings of their interests" (2006: 108). This is precisely the approach I take in this study by conducting post process interviews with mediation participants.

The mediation context seems an appropriate one to explore deliberation's interest clarification potential not only because of the conditions I outlined in Chapter 2 (*collective decisions, scope, intensity*), but also because mediation theorists have advanced interest clarification claims that map onto those reviewed above. The claims of classic deliberative theory that suggest participants develop attachments to the common good and clarify their interests in other-regarding directions are echoed by proponents of transformative mediation who believe that "parties may be more willing and able, in other situations, to withhold judgment and give others the benefit of the doubt" in the long term following their mediation experience and that they will have developed "their level of other awareness and their capacity for consideration and respect for others"(Bush & Folger 2005: 80, 81). Though Bush and Folger's articulation of this perspective is fairly recent, they claim to be concretizing a set of expectations about mediation's educative potential that they trace back to the field's origins (Bush & Folger 2005:13). Early proponents of mediation (Shonholtz

1984; Wahrhaftig 1982) also advanced claims, which continue to have adherents today (Herrman 2006; Shonholtz 2000; Wahrhaftig 2004), that place more emphasis on the potential for mediation to clarify conflicting interests in ways that catalyze community organizing and mobilization. Though they place varying degrees of emphasis on self and other-regarding interests, both perspectives make strong interest clarification claims for the mediation process. In fact, in these varied ways, mediation theorists suggest that the value of the process lies in its capacity to generate lasting shifts in the participants' understandings of and dispositions towards their interests.

I examine these claims empirically at the Toronto CDRs, beginning with the expectations articulated by Toronto CDR practitioners, and followed by an analysis of the interest clarification claims made by mediation participants. I find that Toronto CDR practitioners overwhelmingly conceptualize interest clarification in emotional terms, stressing the ability of the mediation process to uncover the emotions that help to explain participants' actions, motives and preferences. They stress the importance of developing mutual understanding between parties even in the absence of any agreement or collective decision. Finally, they expect this to lead to a general dispositional change that makes participants more inclined to practice self-reflection and perspective taking in the future.

My analysis of the interest clarification claims of mediation participants suggests that positive interest clarification claims are made by a little less than half of participants. Despite this, it appears that few of the expectations articulated by theorists and practitioners are realized. Contrary to those expectations, interest clarification claims are sometimes non-reciprocal and there is little evidence that interest clarification effects transfer beyond the specific conflict context. In those cases where positive interest clarification claims are absent, participants make interest clarification claims that establish or reinforce uncharitable views of

each other or report that misunderstandings persist following the mediation. Overall, these findings suggest that mediation has the potential to generate interest clarification effects, but that these will often fall short of the educative aspirations of practitioners and theorists.

4.2 MEDIATOR INTEREST CLARIFICATION EXPECTATIONS

My conversations with CDR staff and volunteers reveal several ways of conceptualizing the interest clarification expectations they have from mediation. As my review of deliberative and mediation theory has suggested, practitioners acknowledge that when participants explore their own and others' preferences, this can serve an instrumental purpose by revealing areas of agreement that were not known previously. Mediators are likely to understand this in terms outlined by theories of "integrative" or "interest-based" negotiation.¹¹⁹ These theories focus on the need to shift parties from positions to interests, that is, from the demands they make to the underlying reasons for those demands, in order to find integrative solutions that satisfy the needs of both parties (Fisher, Ury, and Patton 1983). A classic example that illustrates the value of such a shift involves a conflict between two people in a library. One takes the position: "I want the window open", and this runs up against the position of the other, which is: "I want the window closed." These positions appear incompatible and a typical approach to resolution might revert to compromise (open the window halfway). Through discursive exchange, however, the parties might discover that their underlying interests suggest options for mutual gain. For example, the interests "I want fresh air in the room" and "The draft from the window makes me uncomfortable" can both

¹¹⁹ See Mansbridge et al (2010) and Mansbridge (2009) for the view that integrative negotiation is a form of deliberation (in contrast to classic views that characterize negotiation and bargaining as deliberation's opposite.)

be met by opening a window in the next room, which allows fresh air without producing a draft (Metcalf and Urwick 2003).¹²⁰

This is how volunteer Vivek understands the purpose of interest clarification in mediation.

I think when you move people off positions and on to their interest in what their needs are, there's more ability to fashion solutions that can maybe[meet] both, those needs and desires. And it's like the whole, the orange analogy.¹²¹
(Vivek, CDR Volunteer)

Yet aside from its immediate potential to produce better collective decisions, interest clarification is also expected to have lasting impacts on participants in ways that will make them better citizens. Interest clarification expectations with this educative aim take three general forms in the accounts of CDR staff and volunteers.

One form follows the vision of early community empowerment approaches to community mediation, and associates the lasting impact of interest clarification with community organizing. From this view, mediation presents an opportunity to uncover the 'root causes' of a conflict such that its connections to broader social conflicts are made clear (Wahrhaftig 2004, Shonholtz 2000). It is also expected to build alliances within neighborhoods, particularly underserved neighborhoods, around interests shared in common, and in so doing build capacity for collective action around shared problems. These goals

¹²⁰ This classic example of the library window dispute is described by Mary Parker Follet in her 1925 paper entitled "Constructive Conflict" (see Metcalfe & Urwick eds. 2003 pp. 1-22). Follet's example was used in 1981 by Fisher, & Ury in their first edition of *Getting to Yes* without attribution to Follet. It is recounted in many places as a classic and simple example of integrative or interest based negotiation (Mansbridge 2009).

¹²¹ The orange analogy is another classic example illustrating the value of exploring the interests that are underlying the positions parties adopt in a conflict (see Fisher, Ury, and Patton 1983). In this case two parties are in a dispute over an orange. One strategy, often considered fair, is to split the orange in half. However exploration of the parties' interests reveals that one party wants the rind to bake a pie and the other wants the flesh to eat. Though many disputes do not have such a simple "win-win" solution, the analogy, like the window example, illustrates neatly the way that exploration of interests can open up ways of maximizing mutual gains.

resonate with a small number of Toronto CDR practitioners. Though she is somewhat measured in her claims, Courtney clearly understands interest clarification in these terms.

I think too that dividing and conquering is one of the most effective tactics of those high up in the power structure who kind of just want to maintain the status quo, if you have people from somewhat marginalized communities or social classes who are spending all their time arguing with each other, they're not going to organize and demand social change. So it's not as though we at [CDR2] can say oh well having done this and this mediation now we can see that you know such and such a neighborhood is ready to organize against that toxic waste dump that you know someone was planning on putting there ... but I think you know we don't need to be able to say we saw this result in a really demonstrable way. I think it's enough to feel that we're putting a few bricks into that foundation so to speak. (Courtney, CDR Volunteer)

Her comments suggest that this kind of effect on the way participants come to understand their interests may not be demonstrable, but Nikola describes a case that he believes demonstrates it quite clearly. Describing a conflict he mediated between several residents living on the same street where crime had been on the rise he says:

They were not organized as a neighborhood, they were not talking about the issues, they were not trying to solve some problems together but individually, which of course weakened them a lot ... [but] after that small problem on the street was solved between two of them they started facing the bigger problem of the street which involved more people and they talked about, it was early summer, and they talked immediately about organizing a street party or a barbecue and that they could get together and talk about what's happening, should they contact the police or the counsellor, and those type of issues. Immediately. I mean it was very interesting what happened that day [following the successful mediation]. (Nikola, CDR Volunteer)

It is based on this experience that he concludes "in that sense it is [a] kind of revolutionary activity" when describing the educative goals of community mediation.

For the most part however, this characterization of the interest clarification process, one that places emphasis on the social and/or political sources of conflict, is rare among CDR staff and volunteers. Far more dominant in their narratives is the second form of interest clarification which places emphasis on the psychological and emotional sources of conflict.

It's more about digging deeper, it's really about connecting parties as individuals, as human beings, and what they do is they look at what their, you know, quote interests are, what's the, not the issue, not the thing on top but what's going on there underneath ... so it's a lot of the emotional stuff behind it, and it's allowing two people or more than two people to understand each other. ... I guess there's a business model I guess it comes out of the Harvard Negotiation Project¹²² and ... so it's less emotional and it's about what your interests are and you know, but here we dig even deeper and get into the emotions. (Frank, CDR Volunteer)

Here Frank emphasizes the importance of uncovering parties' emotions in order to develop mutual understanding. He distinguishes this form of "deep" therapeutic interest clarification from what he perceives to be a more "shallow" instrumental interest clarification to stress the educative potential of the former.

Gary also focuses on the emotional and psychological roots of conflict and the lasting educative potential he believes follows from its exploration.

What a dispute is, is a difference of fact, or a misunderstanding of fact. And a conflict is a misunderstanding of feeling. So, a feeling is a deeper more internal process and we use ... the symbolism of an iceberg¹²³ where the iceberg is on the surface of the water, and you see it on the horizon and wow it's big, but that only represents about ten percent of its true size. The rest of it is below the water level and that's really where we go with mediation, the transformation process, to get to the root, that's where all the stuff you don't see, the feelings, the emotions, the parts that people, that influence behavior and attitudes, and that's where we're going. (Gary, CDR Staff)

This conception of interest clarification involves introspection about one's own feelings, the cathartic experience of having those listened to and affirmed, initially by the mediators and hopefully later by the other party, and finally the exposure to and appreciation of the feelings of the other party on the matter. As Gary continues below, the structure of the mediation process is intended to bring about this shift among participants.

¹²² Here Frank refers to the Program on Negotiation at Harvard Law School, established by Fisher and Ury (among other leaders of the negotiation field) authors of the classic text cited earlier (Fisher, Ury, and Patton 1983).

¹²³ See Cloke and Goldsmith (2005) for elaboration of the "Conflict Iceberg". In short, Cloke and Goldsmith present an approach to conflict management that requires parties to go beneath the surface of issues in a conflict to explore its emotional and psychological content.

You get that kind of real connection where people can tell their story, maybe for the first, first time when someone's actually listening and hearing and they can do that, in a way that they feel heard. And just to be heard can be just very cathartic to shift people to then move into considering other, cause when people are in conflict usually they just, think self, one perspective, one dimension, it's not, I don't really give a shit about the other person. It's what I'm going through, and what they made me go through, how they've been affecting me. So we have to get them to consider how the other person's feelings and how their own behavior may have affected the other person too. (Gary, CDR Staff)

Gary's comments focus on the dynamics within the process that help parties to reflect and consider their own interests (understanding self) and the interests of the other (understanding other), with an emphasis on feelings.

That practitioners see this interest clarification in educative terms is clear from the way they stress its value even in cases where it does not generate agreement between the parties on substantive issues.¹²⁴

You know, even if they don't agree with where the other one is coming from but at least they understand why the other person did what they did. (Gloria, CDR Volunteer)

And sometimes you go through a mediation session, you may not go into agreement, but they've heard each other, parties have actually heard each other. (Kate, CDR Staff)

But even if they don't agree on everything there's still a huge transformation as far as how they look at each other. And I think how they look at other people after that. It's very emotional, it's a very emotional experience to be there as a mediator and to watch the parties go through this too. (Alyssa, CDR Volunteer)

Alyssa's account above takes this educative conception of interest clarification one step further by suggesting that it is a transferable process that alters the way participants "look at other people" in general following the mediation process.

¹²⁴ It is also the case however that the goal of mutual understanding is important to generating agreements in the minds of mediators. In contrast to the "win-win" solutions mentioned above, CDR staff and volunteers also discuss the exploration and disclosure of motives and feelings that may generate empathy and create potential for concessions and compromise. My focus here however, is on their belief that mutual understanding has lasting and transferable benefits regardless of its relationship to settlement.

This captures the third theme emphasized by CDR staff and volunteers that a general dispositional change occurs for mediation participants with respect to their own interests and the interests of others. CDR staff and volunteers emphasize their hope that participants develop a disposition towards self- reflection and perspective taking as a lasting result of their mediation experience.

Paul and Leila's comments below are illustrative of these aspirations.

That capacity,¹²⁵ I guess it entails the capacity on the part of people to know themselves, to understand themselves you know, why does it bug me when the neighbor uses that language or why do I care so much about that way of constructing the workplace or, what is it that's poisonous about this environment. So if that's part of the capacity to know ourselves and what our triggers are and what our values and beliefs are and to reflect on those things and to, and to use those things sort of consciously. It's the capacity to see those things in other people, to understand other people beyond simply that being another bundle of individual rights and obligations, or that being you know another noisy organic unit, source of noise but to understand that person as a person. That there are reasons why they act the way they do, they too have feelings and values, they too have a history that leads them to act in certain ways. (Paul, CDR Staff)

I think one of the helpful things that a mediation can create is for the person to go away from what he or she thinks, and for a moment would put herself or himself in the shoes of the other. And I think in mediation and particularly in transformative mediation that is very relevant, that people would understand what's going on in the mind of the other person. And I think ultimately when you're in a conflict later with somebody else that would be a training that you

¹²⁵ Paul refers to reflectiveness as a capacity in a way that hails back to the "capacity claims" discussed in the previous chapter. There I focused on communication skills such as listening and asserting. Though the language of 'capacity' and 'skill' are invoked in descriptions of 'reflectiveness', I characterize it in terms of a disposition to help draw an analytical distinction between efficacy and interest related changes. I do not claim that the categories of efficacy, interests, and relationships operate entirely independently of each other, but instead parse them in these ways so that we may begin to unpack and scrutinize what is often an amorphous category of "better citizen" claims. The accounts of CDR practitioners also suggest that they see a distinction between reflectiveness and other skills they describe even though they struggle for language to make this distinction. Consider the ambivalence towards the word "skill" in the following comments from Kate:

Ok, well, it just, it teaches them the skills almost to step back, and actually acknowledge their own needs, and their own interests behind conflict. As well as that of their neighbor or the other party. ... so I guess when I say skill I guess just the skill of acknowledging and um, taking time. ... So just getting them really thinking, maybe I shouldn't say skills but I just think it really helps them to acknowledge things, and to be able to step back and understand where they're coming from, truly and that of their, their neighbor or the other party. (Kate, CDR Staff)

would have learned to understand and that, listen, it's true that I think this in my mind but, but what about this other person. (Leila, CDR Volunteer)

Clearly such a disposition is related to the communication skills of listening and assertion discussed in the previous chapter. It relates as well to the development of bonds of affiliation and affection that I will discuss in the next chapter. Here however, I narrow in on the process through which parties are expected to clarify for themselves and to each other what they want and need and the general dispositions of reflectiveness (self-reflection and perspective taking) that are expected to develop as a result of such a process. Overall, the dominant view of interest clarification expressed by Toronto CDR practitioners focuses on uncovering the emotions of self and other in ways that are expected to have lasting effects on participants' general ability to engage in self-reflection and perspective taking.

4.3 PARTICIPANT INTEREST CLARIFICATION CLAIMS

Perhaps not surprisingly, given the emphasis of CDR practitioners, participant interest clarification claims are also focused on the emotional content of their conflicts and the degree to which they reached mutual understanding with conflict partners. These kind of interest clarification claims are much more typical than claims that emphasize the socio-political roots of conflict. Two participants described their interests in overtly politicized terms and recounted their involvement in community organizing activities related to their conflicts. But in the cases where this occurred,¹²⁶ the organizing transpired prior to and independent of the mediation experience. This lends support to the view that conflicts addressed by community mediation, that often manifest as small scale interpersonal conflicts, do sometimes engage with broader community interests that call for organizing. It also suggests however, that mediation is not likely to catalyze this sort of organizing. In the cases

¹²⁶ Lorna organized a sound survey in her building to find out if other tenants were having difficulty with noise. Jeremy organized meetings with residents on his street to address the noise and safety issues raised by the scrap yard adjacent to their street.

I examined, therefore, there is no evidence to confirm community mediation generates the kind of socio-political interest clarification emphasized in the community empowerment goals of theorists and practitioners cited above.¹²⁷

Table 4.1 summarizes the distribution of psycho-emotive interest clarification claims in the participant interview narratives. It shows that a little under half of participant

Table 4.1: Participant Interest Clarification Claims¹²⁸

Positive (45%)	? (23%)	Neutral (32%)	Negative (3%)
Self/Other	Divisive	Misunderstanding	Coercion
14 (45%)	7 (23%)	10 (32%)	1 (3%)

narratives include at least one positive interest clarification claim that is attributed to mediation. This column includes both claims regarding clarification of one's own interests ("self-understanding") and claims regarding clarification of the other's interests ("other-understanding").¹²⁹ Though this presents support for the view that practitioners' educative expectations are met, there are several reasons to remain cautious about drawing that conclusion. As I discuss more below, the educative strength of these self and other understanding claims is often limited by their non-reciprocal, non-transferable, and ambivalent qualities. Relatedly, the middle column in Table 4.1 shows that 23% of participants credit the mediation with generating what I call "divisive understanding" interest clarification. These are instances where participants report learning about the perspectives and motivations of their conflict partner in ways that solidify or reinforce negative feelings

¹²⁷ In two additional cases, both Jonathon and Anne say they did not feel the mediators were sufficiently sensitive to the gender dynamics in the conflict due to their heteronormative bias providing additional evidence to suggest that mediation is not a process that attunes participants to their socio-political interests. Instead their comments suggest that it can sometimes be a process where participants who are already conscious of their socio-political interests are channeled in other directions by mediators who do not grasp those interests.

¹²⁸ Percentages are calculated based on the total number of participants (31). Totals exceed the number of participant narratives in the table because Beth makes a Self/Other understanding claims and a Misunderstanding claim, resulting in a total of 32 interest clarification claims listed in the table. Hers is the only narrative that includes competing interest clarification claims. This suggests that although the categories I present are not mutually exclusive, they each capture fairly distinct outcomes.

¹²⁹ 3 participants report both self and other understanding, and the remaining 10 report other understanding only.

and impressions towards them. This category of interest clarification is not highlighted by CDR practitioners and, as I discuss below, its relationship to their educative aspirations is unclear (as is indicated by “?” above this column). 32% of participant narratives include “misunderstanding” claims. These suggest that mediation does not serve to clarify interests and that pre-existing misunderstandings concerning each other’s interests persist. Finally, there is just one participant who reports feeling pressured to act against their interests in the mediation, which I label “coercion claims”. This is the only instance where I find evidence that mediation has negative effects with respect to interest clarification.

4.3.1 Self and Other Understanding Claims

Within the group of participants who make positive interest clarification claims, only 3 participants (10%) make “self-understanding” claims that focus on the way the mediation experience improved their understanding of their own interests. For example, Beth describes how the mediation provided an opportunity to really focus on and explore her own needs in the conflict.

I was trying to listen to my own inner voice and my own needs instead of automatically giving into the needs of other people, it’s hard work to do that.
(Beth)

The rarity of self-understanding claims in participant narratives departs from the emphasis practitioners expectations place on this kind of interest clarification. It is consistent however, with the findings, noted in Chapter 3, that participants do not usually come to mediation oriented to their own deficits. The potential for mediation to contribute to self-understanding, at least in a form that participants are capable of articulate, therefore appears quite limited.

Furthermore, there are reminders in participants’ narratives about the challenge of isolating educative effects back to the mediation experience itself in contrast to the overall

conflict experience. Anne's comments below, an excellent example of self-understanding, are attributed to the broader conflict experience and not to insights gained during the mediation specifically.

Anne: So the situation itself was really, was a learning experience for me in that I came to know myself much better in terms of what's ok for me and what situations, are sustainable. And then after that I had a much better living situation.

Heather: Do you think that the, the mediation process gave you access to that learning or was it by virtue of the experience itself that those lessons came?

Anne: I think it was the experience itself. I think mediation was really important and useful for me, but that most of the learning was from the situation.

As this excerpt illustrates, I probed for this distinction in interviews and, whenever possible, excluded those educative claims that are not attributed directly to the mediation (Anne's self-understanding claim is therefore not counted in Table 4.1). This ambiguity however, provides one reason for caution in attributing educative effects to mediation.

Most positive interest clarification claims that are unambiguously linked to the mediation experience are framed in terms of "other understanding." A minority of these attribute broad other understanding to the mediation experience. In these cases, participants report an ability to see the perspective of the other in the current conflict, and relate this to an appreciation of and respect for the general perspective of the other more broadly. Alan describes the shift in his perspective about Lisa, his ex-spouse this way:

I could sit back a little bit more objectively and look at Lisa as a person and I just felt you know that she's the way she is and we were not, I was never meant to have any easy conversation with this lady, like literally, it was too difficult, like it was just too hard, too much work for me,... and I'm ok with that, I can't fix that, I can't change that about me. I certainly can't change it about her, so yeah.
(Alan)

Lisa reports a similar shift, though she does not frame it quite the same way as Alan. When asked if she wanted different things from the mediation process at the end compared to the beginning, Lisa explains that she no longer approached the process as a way to humiliate

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Alan. She describes herself shifting from the “little mind” to the “big mind” and when asked to explain what she means by that she says the following:

Lisa: The big mind is generosity of spirit, it's just good. ... big mind embraces and the little mind is just like judgmental and not nice.

Heather: ... What happened in the process, do you think that caused that change for you?

Lisa: just every, things where clarified, we were able to listen to each other. We were able to at least partially see each other. We got past the emotion. It took away all that, just there, there wasn't a place for it.

This first part of Lisa’s comment is focused on “self-understanding” and a shift to be more generous and other-regarding in her conceptualization of her own interests (i.e., no longer seeking to humiliate Alan). Lisa emphasizes that this was made possible through the mutual listening and processing of emotions that took place during the mediation, suggesting that she learned things about Alan’s perspective (i.e., “other understanding”).¹³⁰ Lisa does not describe this in terms of particular interests, but instead as a general disposition she had towards Alan by the end of the mediation. Michelle describes her experience in quite similar terms, describing a mediation with her spouse from whom she had recently separated:

Also, like I said I’ve, not that I didn’t have patience before but I learned to have a little bit more patience, I kind of understand where he’s coming from. Cause before it was me just you know, I want my point out there, you’re not understanding the point but at the same time I wasn’t understanding his point, right so, that’s one of the things I learned, like just to be more understanding, to compromise, ha ha, so yeah. But you know at that point I was getting tired of compromising but yeah, after the meeting like I was feeling a little better so it gave me just a little bit more, you know, so. (Michelle)

The remaining “other understanding” claims are more limited to the perspectives and motivations that apply in the particularly conflict.

I guess that helped knowing that he felt just as bad that we lost our easy way with each other. ...

I didn’t feel as angry at him, I had a bit more compassion for him I think.
(Lorna)

¹³⁰ Lisa is 1 of 3 participants who make both “self” and “other” understanding claims during their interview.

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We were very sympathetic of what would happen here, and you get to hear both sides of the story and, but now you know that there's a reason all the time for why something's happening so it's not always people aren't doing it just to do it to you. (Jeffrey)

I guess I'm not as angry, I think we kind of understand each other a lot better, I think he and his father realized that we're not a bunch of crack pots who are complaining about the slightest little bit of noise. ... And I kind of realize the same about them, they're not out to get us and all that, we both kind of realize you know where each other is coming from. I think they understand our point and we understand there's whereas before I don't think, I don't think either of us kind of saw the other side clearly. (Jeremy)

Participants report learning particular information about the wants and needs of others that they did not have previously, and they suggest that the result of this is to be more understanding of their conflict partners. These clarifications are discussed, not in terms of their utility in fashioning agreements, but with emphasis on how they generated compassion, sympathy, and understanding. Lorna's claim is notable in particular because she and her conflict partner did not reach an agreement in mediation. Although she is the only participant who makes a positive interest clarification claim that did not reach agreement in mediation,¹³¹ this provides some minimal support for the notion that interest clarification has a non-instrumental (i.e. educative) value.

Although the positive interest clarification claims described above provide good support for the interest clarification expectations of practitioners, there are several reasons to temper the conclusions that are drawn from them about mediation's educative potential. First, in all cases, these interest clarification claims are focused on understanding with respect to specific others, who participated in mediation. Jeffrey's comments above are couched in somewhat generalized terms suggesting that his experience with interest clarification in mediation may carry over to an overall disposition towards reflection and perspective taking

¹³¹ This is not surprising given that 86% of those attending mediation at Toronto CDRs between July 1, 2006 and July 1, 2007 and 82% of interview participants reached agreement in their mediation. See Appendix I.

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in his future interactions. Aside from this however, there is minimal evidence to suggest that positive interest clarification claims are transferable beyond the specific relational context where they occur.

These findings resemble those discussed in Chapter 3 with respect to the non-transferable quality of many efficacy claims. The exception there were capacity claims that, unlike confidence and self-reliance efficacy claims, are more likely to be made in generalized form. Examining these generalized capacity claims with interest clarification in mind generates some limited evidence that mediation does, in a few cases, contribute to lasting dispositions towards reflectiveness, and perspective taking in particular. About four participants make listening capacity claims that suggest they have not only acquired a generalized ability to listen to what others are saying, but also to reflect on their interests. Recall Christine's comments, also cited in Chapter 3 in my discussion of capacity claims:

There have been a few times where I felt that I've been able to do it, in a sense, invite someone to explain or express his or her point of view in order to achieve a deeper understanding of what's going on even if it's painful or if it's not what I agree with but to achieve it. So, in a sense I think that I'm able to integrate some of those techniques, at least periodically, if not all the time. (Christine)

Christine's capacity claims about listening point to a disposition towards perspective taking and stresses its purpose in terms of understanding as opposed to agreement- just as mediators do when they talk about their interest clarification expectations. Indications of this kind of disposition are also found in the capacity claims of others who make positive interest claims (these are Lisa, Alan, Julie and Evelyn).¹³² Yet, my analysis suggests that generalized interest clarification claims are made at most by 15-20% of participants.

Furthermore, participants convey some ambivalence about the scope of their interest clarification claims. This exchange between myself and Jeremy's is illustrative:

¹³² For more details about the educative claims of individual participants and how the outcomes in the different categories relate to each other, see Chapter 6.

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Heather: Do you think that your experience with the mediation has effected at all the way you approach any of those other situations in your life... and aside from possibly using the mediation service, in another context, do you think there's any other way that it may have changed your approach at all?

Jeremy: That's hard, it's a tough one. Maybe in terms of just kind of trying to see things from different sides a little more, like that's all I, I think that's always a good thing. ...

H: Is that your sense that you already did that pretty well, or do you feel like there's actually been a change in your way of approaching things? ...

Jeremy: ... I don't know, that's a tough one, it really is, I'm not sure, to tell you the truth, I'm not sure. You know I'd like to think well maybe now I'll understand a bit more of what they're going through maybe, a little more you know sympathetic to their plight but I mean by the same token maybe I'm not, I don't know.

Two things are important to highlight about Jeremy's statements above. First, he is careful not to overstate the effect of mediation on his general disposition towards perspective taking. Second, though he begins by suggesting that a transferable effect has occurred, he concludes by suggesting that gaining a better understanding of the perspectives of his conflict partners in mediation may not even have much effect on his future interactions with them.

Comments like these, along with the scarcity of interest clarification claims framed in transferable terms, suggest that when interest clarification does occur in mediation it will most likely remain limited to the relational context.

There is a second limitation to the positive interest clarification claims of participants. Not only do they suggest that interest clarification is quite modest in its reach, but some also highlight the non-reciprocal nature of interest clarification. Though it is typically described by practitioners as a balanced process where parties are able to "hear each other" and "reach mutual understanding",¹³³ there are cases where participants describe the clarification process

¹³³ Though they are few, there are exceptions to this. For example see Paul's comment below which acknowledges the potential for non-reciprocal interest clarification.

"Yeah it's certainly possible that it can have negative impacts, if you re-traumatize people. ...We just made this person sort of open themselves up and make themselves vulnerable and do a lot of hard work, bearing their souls so to speak, and they didn't really accomplish anything. The other person seems just as uninterested or just as cold or just as unconnected as they were before. That's not good." (Paul, CDR Staff)

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as unbalanced and/or that comparisons between different narratives of the same case suggest an asymmetry.¹³⁴ For example, Beth feels that she came to understand the perspective of her brother, but her narrative is dominated by expressions of disappointment and frustration that she did not feel understood by him.

Probably the most difficult though was the feeling that I didn't feel that he was hearing me, which I'd thought was what mediation was all about. ... And you know it's hard for me to say whether the process it failed or not, we came to a resolution, we both signed the documents. ... So I mean that is a resolution. But it wasn't a happy one. And I don't think my brother felt happy either. Because we went through a difficult process for both of us. (Beth)

This feeling of disappointment, attributed to the occurrence of non-reciprocal interest clarification, dominates Beth's overall assessment of the mediation experience. It is perhaps not surprising, given her experience, that Beth does not report a greater disposition to consider the perspectives of others in future interactions.

In another instance, Victor describes learning important information about Sylvia's perspective, saying that it helped him to identify boundaries for interacting with her in the future. He even describes a more generalized learning about the importance of listening for the way others see a problem instead of viewing it only from one's own perspective and suggests that this insight has improved his interactions with others, such as his wife.

Removed from their context, Victor's interest clarification claims appear to exemplify an optimal educative outcome. Yet Victor's insight in the mediation surrounds matters that suggest quite modest levels of understanding of Sylvia's perspective.

And the other thing I learn is that she say I was harassing her, stalking her and all those things. ... it seems that that was her problem so that's good too because I never thought it would be, so that's why I try not to even look at her. After knowing the fact that's what she thinks. (Victor)

¹³⁴ It was not possible to interview both parties in all cases so these comparisons were not always possible. In cases where only one party was interviewed, claims must be interpreted carefully and with caution in order to account for this possible imbalance.

Not surprisingly, given the nature of her concerns, Sylvia does not report similar gains in terms of her understanding of Victor. She continues to be quite baffled about Victor's interests, and assumes mental illness as a way to explain his actions.¹³⁵ Other than concluding that he set out to harass her in order to get her to pay for a new fence between their properties, she claims to have learned nothing about his perspective of the situation. While cases like Victor and Sylvia's provide some additional illustrations of modest interest clarification claims,¹³⁶ they also illustrate that these changes are more limited and sometimes less reciprocal than practitioner expectations suggest. Sylvia's narrative also sheds light on the category of "divisive understanding" interest clarification claims shown in the center column of Table 4.1, to which I turn next.

4.3.2 Divisive Understanding Claims

Divisive understanding interest clarification claims are made by 23% of participants and suggest that participants develop wholly negative understandings of the motives or perspectives of their conflict partners in the mediation. While participants often begin the mediation process with an uncharitable view of their conflict partner, I reserve this category for those who report learning new information during the mediation that generates or solidifies their negative opinion of the other. I have already noted how Sylvia comes to understand Victor as manipulative, and attributes this new understanding to the mediation process. In other examples, Alfred comes to see Beverly as a woman scorned, and she attributes his actions to a bruised ego, both suspecting that the other's unreciprocated romantic interest is at the heart of their conflict. And Lynn claims to have learned of her

¹³⁵ Sylvia is a medical doctor and comments: "I didn't examine him obviously but I think he's mentally off. I think he has a mental disease, he's not normal."

¹³⁶ As I will discuss in the next chapter, though Victor and Sylvia do not reach "mutual understanding" in terms that are likely to be celebrated by mediation practitioners or democratic theorists, they do adopt habits of avoidance that ensure peaceful coexistence as a result of the insights they gain from mediation. I will argue that this too is a form of good citizenship, though not the kind normally invoked by educative claims.

interlocutor's vindictiveness throughout the conflict, an insight she claims not to have had before and attributes to comments made during their mediation.

In each instance, the insights gleaned during mediation help participants to understand the motivations and perspectives of the other party, but they do so in a way that lowers their opinions of the other and makes perceived or real differences more salient. Participatory theorists have maintained that interest clarification can serve to increase conflict in productive ways, by heightening participants' awareness of differences between themselves and making them better advocates for their own interests. But their focus has been on political and social roots of conflict, not the psychological or emotional realm that mediation practitioners emphasize. When the understandings participants glean from their exchange in mediation direct them to attribute unsympathetic motivations, emotions, or perspectives to their interlocutors, the lasting educative results that mediation practitioners expect are not reached. That is to say, as we might expect, those participants who report these sorts of negative insights about their interlocutors, do not attribute increased self-reflection or perspective taking to their mediation experience as psycho-emotive interest clarification expectations suggest. And while they serve to highlight conflicting interests, divisive understanding claims do not serve to motivate community organizing, political mobilization, or even self-advocacy as socio-political interest clarification expectations suggest.

For these reasons, I do not group "divisive understanding" claims with "self/other understanding" claims as examples of positive interest clarification. It is clear that they do not match the educative expectations of practitioners and theorists. It is also clear from these claims however, that participants have learned something from their mediation experience. For this reason, they can hardly be categorized in the "neutral" category as evidence that

nothing changes as a result of mediation. And yet, I also do not consider these claims to provide evidence that mediation has a negative effect on participants. Particularly given the emphasis recent deliberative theorists have placed on the value of clarifying conflicting interests, it is important to consider that these outcomes may in fact be valuable. As the comments from Victor and Sylvia help to illustrate, the perceived differences and antipathy that mediation helps to generate in these cases may in fact be warranted. Embracing them as such requires a reconceptualization of deliberation's educative effects. I will turn to this task in greater depth in Chapters 5 and 6. At this stage the normative significance of mediation's "divisive understanding" effects may remain unclear, but they provide clear reason to question the interest clarification expectations of practitioners and theorists.

4.3.3 Misunderstanding Claims

This is further evidenced by those participants (32%) who report persistent misunderstanding following the mediation, suggesting that the mediation experience has not produced interest clarification. In about half of these cases, misunderstandings seem to persist between parties in part because they do not approach the mediation process with the goal of understanding in mind.

I felt like I needed to be reasonable about what I thought was achievable. My goal was to get all of the money stuff worked out in as safe a way as possible. And so it was, it could have been safer but it wasn't as unsafe as you know me like sitting in the living room. (Anne)

Like Anne, these participants seek to negotiate a basic distributive or logistical problem with no intention of delving deeper into motives, emotions, or perspectives. They engage in the mediation process not because it offers the chance to cultivate mutual understanding but quite the opposite, because the formality of the process and the presence of outsiders is expected to ensure that discussions do not stray below the surface. The desire to keep discussion focused in this way is justified in terms of emotional and sometimes physical

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safety, something the mediators help reinforce by their very presence in the view of some participants.

In one case, this expectation is taken further, to the point that Martha expects the mediators to advocate for her perspective. According to her, the mediators helped her communicate to the Pastor of the church next door, whose members are mostly recent immigrants, the cultural understanding of good neighborly behavior that applies in Canada.

I had the satisfaction that they had been told¹³⁷ what they can and cannot do, or the minimum of what they should do as good citizens, I had that satisfaction.
(Martha)

And because she experienced the mediation process in this way, it is not surprising that she did not see it as an occasion to clarify her own or other's interests.

Heather: Was there anything that you found out from the meeting that changed your view at all about what was causing the conflict?

Martha: No, no, no. That was plain and clear to me right from the beginning... that they were harassing me.

Though an extreme example, Martha's narrative illustrates how the mediation process can fail to clarify interests at times because parties have more limited or simply different expectations from the process. As noted previously in Chapter 3, the orientations and expectations of the participants are one of the reasons why educative goals often go unmet.

On the other hand, even those participants who are quite committed to clarifying psycho-emotive interests may still have difficulty reaching this goal. Norm describes feeling disappointment, and even lasting resentment, towards his siblings following the mediation. He feels that misunderstandings persist between them because he was not able to express his perspective and emotions to them during the mediation. He suggests that the time and

¹³⁷ Elsewhere in her narrative, Martha makes explicit that "they were told" not by her, but by the mediators. If this in fact occurred, it would be a clear violation of principles of neutrality and party self-determination that mediators are expected to adhere to.

commitment that would have been necessary for him to express his true feelings in a productive space were not available in the mediation process.

I would say that [at the] final meeting, for myself, that the emotional intensity and my negative feelings kind of really came to the surface and I was just sort of stuck to deal with them on my own. Which is, this is not necessarily a criticism of the process, I mean it was stressed at the beginning that you know there's a strong distinction to be made between mediation and therapy. Well, I'd say the line can get very thin and even, well in terms of what comes, the line can get thin and even dissolve. (Norm).

For Norm, the therapeutic tone of mediation and the emphasis placed on psycho-emotive interest clarification became a false promise in a process that was too brief and problem-oriented. Though he does not direct it toward the mediators or the CDR, Norm reports a lasting sense of bitterness towards his siblings, who were not open to hearing from him in the process.

Cases like these further underscore the difficulties posed to achieving reciprocal interest clarification in ways that have desirable lasting effects on participants' dispositions. They indicate, contrary to what theorists and practitioners ordinarily seem to suppose, that face-to-face talk is often simply not enough for participants to clarify their interests for each other. Furthermore, in cases where misunderstandings persist in this way, participants are not likely disposed to attend more carefully to the perspectives of others in the future. Indeed, those describing disappointment do not attribute such effects to their mediation experience.

4.4.4 Coercion Claims

As I noted in Chapter 3, Loretta's narrative stands out as unambiguously negative when compared to the positive or mixed accounts from mediation participants. Not surprisingly, this has an effect on her interest clarification claims and hers is the only narrative containing what I call "coercion" interest clarification claims. This is in large part

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because she felt pressured, by her conflict partner and the mediators, to enter into an agreement contrary to her interests. For Loretta, the mediation process was not an open discursive environment for sharing and gaining information about interests in order to make better collective decisions. This is the basic instrumental assumption upon which educative assumptions are built. If instead, as Loretta's account suggests, the process becomes one where the interests of one party dominate heavily at the expense of another's, the mechanisms expected to produce better citizens are seriously compromised.

This was the case for Loretta, who found the process to be one where she was made a villain and shamed into an agreement she considered unfair.

They [the mediators] made me feel the bad one. I am a loser, I am a thief, I feel like I was a thief. You know, they made me feel bad. The bad person, you are the bad one because you owe money to him. ... Whenever mediation is I hate them, because it hurts me, it hurts me. (Loretta)

The potential for this kind of social pressure and power imbalance is often invoked by skeptics of deliberation's normative appeal. Loretta's case is notable because of the warning it signals that such fears are certainly warranted, particularly when mediators are perceived as advocates for one party against the other. Her case is also notable because it is unique among those I encountered. While I have argued that interest clarification goals are often frustrated, this is not usually because of outright coercion and disregard for a person's interests as in Loretta's experience. Interest clarification is more often limited due to the psychological and emotional sources of conflict that are not easily clarified through face-to-face talk.

4.4 CONCLUSION

To sum up, my analysis of interest clarification expectations and claims at the Toronto CDRs has revealed several insights. To begin, it focuses attention on the importance of emotional and psychological interests to collective decision making processes, and in particular to their educative potential. This emphasis however, may come at the

expense of alternate approaches to interest clarification intended to emphasize the social and political roots of interpersonal conflicts. Though a group mobilization approach is expressed by a handful of mediation practitioners, and though some cases exhibit the potential to be addressed through community organizing, mediation does not appear to clarify collective interests in a way that catalyzes such activity. This provides some confirmation to those who have criticized mediation for personalizing and depoliticizing conflict in ways that risk reinforcing structural inequalities (Nader 1993; Hofrichter 1982). But by focusing their interest clarification efforts and aspirations on the psycho-emotive aspects of interpersonal conflict, mediation practitioners and participants highlight the importance of these kinds of interests to deliberation and provide a setting where they can be explored in-depth.

Such a focus reveals the significant challenges to clarifying interests in ways that generate mutual understanding and lasting dispositions of reflectiveness. Although a significant proportion of participants make positive interest clarification claims, they are usually articulated in non-transferable terms and sometimes underscore the non-reciprocal nature of interest clarification. Quite often significant misunderstandings persist and participants are not clearer about each other's perspectives and motives. Other times participants do not want deeper levels of mutual understanding but rather seek out mediation as a process that can ensure discussions remain focused on instrumental matters that can be resolved relatively easily. And sometimes they report a clarification process that reinforces negative conceptions of their conflict partners' emotional or psychological motives in the conflict. Though such outcomes may be necessary, and as I discuss in the next chapter, even desirable in certain cases, they are not likely to generate lasting effects on participants' disposition to be self-reflective and engage in perspective taking. Indeed, in the cases where misunderstandings persist in these ways, participants make no such interest

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clarification claims. As a result, efforts to build the reflective citizen through the community mediation process often come up short.

Chapter 5

Community Mediation & Relationships Trying to Build the Friendly Citizen

5.1 INTRODUCTION

In this chapter, I focus on *relationships*, the last of three categories for conceptualizing deliberation's educative effects that I proposed in Chapter 2. As I suggested there, relationship expectations concern the effect of deliberation on the dynamics of interaction between deliberative participants, and on members of the relevant political community more widely. Participatory theorists like Barber have argued that deliberative experiences establish and strengthen civic bonds between participants by generating and reinforcing feelings of empathy and mutual respect (Barber 2004). Deliberative theorists similarly maintain that deliberation has the potential to generate "more equal, caring and cooperative social relations" (Rosenberg 2007a). Mediation theorists and practitioners have also focused on the potential for community mediation to change the relationships between participants and to influence the social relations of communities more broadly. Early articulations of the community mediation model and more recent representations of "transformative" approaches both stress the potential for mediation to generate understanding and respect between participants in ways that result in lasting changes to their relationships with each other and others in their community (Shonholtz 1993; Bush and Folger 2005). My review of the empirical literature suggests that though the relationships category encompasses some of the weightiest normative claims about participatory deliberative processes, it occupies the least attention in empirical investigations of deliberation's educative effects.

In this chapter, I begin to address this by focusing explicitly on the category of relationships, first, as it is articulated by practitioners at the Toronto CDRs, and second, as it

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is described by mediation participants following their mediation experience. I find that practitioners at the Toronto CDRs describe ideal relationship outcomes in terms that evoke notions of friendship and friendliness. The ideal of friendliness is not monolithic however; it spans from “below the surface” feelings of genuine care and authentic attachment (authentic friendliness) to “above the surface” behaviors of tolerance and courtesy (courteous friendliness). Across this spectrum, practitioners envision relationship changes to have wider transferable effects on the social relations within the political community as a whole. Finally, practitioners highlight their own direct role in generating friendlier relations between citizens by both modeling care and courtesy in their interactions with participants.

I find participant accounts of relationship outcomes do sometimes map onto the spectrum of ideals articulated by Toronto CDR practitioners in both intimate and neighborhood contexts. In these instances, participants describe changes in their patterns of interaction that emphasize increased friendliness. More often however, participants describe their post mediation relationships in terms of avoidance. Sometimes avoidance is the result of physical relocation and the total severing of communication; other times participants describe patterns of avoidance maintained within contexts of ongoing proximity and interaction. This avoidance is often quite blatant and departs from even the most modest ideals described by mediators. For example, participants engaged in avoidant relationships, particularly in the neighborhood cases, sometimes express a desire and preference to eschew norms of common courtesy such as greetings and pleasantries. Furthermore, there are some instances of avoidance where participants express a genuine appreciation for their new patterns of interaction suggesting that the failure to achieve friendlier relations is not necessarily a failure to build desirable relationships. As I will elaborate below and in the next

chapter, these findings not only suggest that mediation usually falls short of its relationship ideals, but also that these ideals themselves warrant re-examination and reformulation.

5.2 MEDIATOR RELATIONSHIP EXPECTATIONS

Mediation practitioners place considerable emphasis on relationships when discussing their expectations and aspirations about the lasting effects of the process. Statements about relational changes are frequent but many times quite broad and underspecified. For example, when asked what question she would have for participants if she had the chance to do long term follow up, Leila responds in the following way:

I want to know if that mediation has affected them long term, and [if] it has affected them in relating to others ... And I want to know how that changed them. Because ultimately I think conflict resolution is about changing people in their relationship, in their behavior, and their thoughts. (Leila, CDR Volunteer)

While some describe relationship changes as the fulfillment of individual efficacy and interest expectations described in previous chapters, others focus on relationships as a more plausible kind of change.

I think in the majority of the cases we're transforming that particular relationship. At least that's what I've seen, that particular relationship will not be the same as it was before when they had the conflict, so that's change we've affected. Have we changed the individual people so that they are now much better conflict resolution specialists than they were before? No, I don't think that's necessarily the case. (Sophie, CDR Volunteer)

Though she is more guarded about other categories of educative effects, Sophie is confident that mediation will change relationships between parties. Such comments underscore the centrality of 'relationship change' to the goals of community mediation practitioners, but they do not provide much detail about the specific changes practitioners have in mind or how they might be observed.

When practitioners do discuss relationship changes in observable terms, their focus is usually on body language cues that they are able to observe during the mediation itself such

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as eye contact, handshakes, and hugging. In addition to these physical cues, practitioners reference indicators like the shift from not speaking to speaking, leaving the mediation together, and even making social plans towards the end of the mediation in their descriptions of relationship change. Those who provide more detail stress that ideal relationship outcomes are characterized by respect and trust. Describing a neighborhood conflict he once mediated that dealt with sexism and homophobia, Nikola says:

It boils down usually to disrespect, or found respect again, for each other. And all these issues, and there was so many of them, became irrelevant because they were talking to each other again and that was the biggest actually problem, because they were not communicating. My reward in that case was obviously that people talked to each other and then actually invited each other to dinner parties after that and so on after not talking to each other for a year. (Nikola, CDR Volunteer)

Describing the way these relational changes produce more deeply rooted agreements, Paul highlights similar themes.

The objective is to change the way people relate to each other so ... that that deal is something they do because of their own relationship, their own capacity, their own trust of each other, because they now respect each other, because they now tolerate each other's differences or because they now care about each other in a different way. (Paul, CDR Staff)

This emphasis on social interaction, respect, and trust suggests that practitioners envision friendliness as the ideal relational outcome. They emphasize its outward display (handshakes, eye contact, hugging) and its internal sentiments (respect, trust, care) in their accounts.

Paul's statement also identifies two modes in which citizens may adopt "friendly relations" after mediation. Though he does not make an explicit distinction between them, by juxtaposing the words tolerance and care, he suggests two different registers at which ideal relationships operate, each signalling different degrees of attachment. In general, practitioners' accounts of relationship change follow this pattern by referencing two kinds of "friendliness". I describe these as "authentic" and "courteous" friendliness. Authentic

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friendliness expectations are most ambitious and stress mediation's therapeutic potential.

Not surprisingly, practitioners are more likely to stress this sort of change in family and intimate contexts where pre-existing relationships have tended to be more intense and long standing. For example, referencing a mediation involving adult siblings, Richard describes the sort of event that is expected to generate authentic friendliness:

We had breakthroughs in communication between the siblings that, I mean they said things to each other that they hadn't said in fifteen or twenty years, so I think it was like a revelation to them. (Richard, CDR Volunteer)

Regardless of the context however, authentic friendliness expectations concern internal feelings and not simply outward behavior. Again, Paul articulates this aspiration with clarity:

There's no law that says you have to like people. You can't make laws that say you must respect your neighbor. You can only make laws about people's behavior but not what goes on in their heads. But community mediation is about what goes on in people's heads. And it says to people, that's your responsibility, you're the only one frankly who ultimately has responsibility for what goes on in your head or your heart or your soul. (Paul, CDR Staff)

Here practitioners describe a form of friendliness between parties that is grounded in genuine feelings of affection, respect, and openness.

Practitioners also acknowledge however, that this kind of relationship change will not always be possible or long lasting. Jim underscores the fragility of the shifts that occur in mediation and speculates that many times they do not last.

I think what we give them is at least a tenuous new way of seeing the other person which can fall apart fairly quickly if anything further happens. (Jim, CDR Volunteer)

In another example, Maureen characterizes authentic friendliness as a theoretical ideal but sees a more surface level form of friendliness as the attainable ideal:

I suppose in the ideal, everybody would understand each other's side so well and will shed whatever tears they want that they would be totally loving and totally restored. I have not seen that very much. For me that remains kind of a theoretical ideal maybe. In the real world the best I have seen is... where they

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walk away, out the door together without real antagonism. (Maureen, CDR Volunteer)

Practitioners describe how efforts to process the emotional content of the conflict in order to build trust and respect at times frustrate participants, and report that they sometimes abandon such goals in favor of quick settlement of substantive matters. But even when they abandon authentic friendliness, they still argue that a less dramatic form of relationship change can result from mediation. Echoing Maureen, Jim further notes that this less ambitious form of relationship change is especially appropriate in the context of neighbor conflicts:

I mean very few of them if you ask them, would you like to have a really good relationship with your neighbor, they would probably say I don't care, I just don't want that person's dog to be disturbing me or, whatever, you know the issue is. So, I think if there's any reduction in tension that's an improvement. (Jim, CDR Volunteer)

I call these “courteous friendliness” relationship expectations because they highlight the establishment or restoration of common courtesy.¹³⁸ When practitioners describe “courteous friendliness” as an ideal, they acknowledge that citizens may not have come to like each other through mediation but suggest that “at least they know where they stand and they don't have to be rude to each other” (Melissa, CDR Volunteer) and that “at least they'll be civil to each other” (Andrea, CDR Volunteer).¹³⁹

¹³⁸ I am drawing here on Keith J. Bybee's account of common courtesy, which stresses its inherent hypocrisy (Bybee 2010). On this view, courtesy relies on “an insistence that individuals conform to an artificial code of decent behavior whether or not they actually like one another” and this hypocrisy makes “social peace and smooth interaction possible” (56). Courtesy does not require genuine feelings of care or concern for fellow citizens because “manners are primarily an activity of outward display” (61). Therefore when I suggest that mediation practitioners idealize friendly relations, I mean that they envision a range of friendliness outcomes spanning from “true” friendship, grounded in feelings of respect and trust, to “false” friendships (37) that are based on courteous behavior.

¹³⁹ It is worth noting that not all uses of the term “civil” or “civility” align with the definition of courtesy I have outlined in the previous footnote. According to Bybee “civility typically refers to the bare minimum of good manners, suggesting little more than the avoidance of overt rudeness” and courtesy is a form of good manners that is “more attentive than civility” (39). Andrea and Melissa's comments appear to appeal to exactly that understanding of civility. In contrast however, several contemporary treatments of civility suggest it has its own moral content and equate it with honesty, decency, virtue and goodness (see for example: Forni 2003;

Beyond basic politeness, practitioners also stress behavioral changes that may at first seem quite mundane, pointing to the important influence they can have on ongoing relationships. For example, Arnold describes a case he mediated as a volunteer where one party agreed to move her piano to another part of her apartment and practice at different times in order to disturb her neighbor less. Such an example illustrates what Kevin, a CDR Volunteer, means when he argues “the disputants don’t want necessarily to have to change their relationship in order to get the issue solved, which is not to say that in mediation by doing a simple transactive mediation they don’t also change their relationship.” Here Kevin emphasizes the potential of more surface level shifts in behavior to improve long term relationships in significant ways even when participants are disinterested in processing the conflict at a deeper emotional level.

Across the spectrum of relationship expectations that practitioners express, from authentic to courteous friendliness, they emphasize the transferable benefits to the wider political community. In comments already referenced above about an instance of positive relationship change, Nikola goes on to describe the benefits for all citizens in the political community, including himself:

My reward in that case was obviously that people talked to each other and then actually invited each other to dinner parties after that and so on after not talking to each other for a year. But for me, maybe because I’m a city planner, the reward was that I created, I put a piece of my small puzzle in creating Toronto a very liveable, tolerant, understanding city. By doing that, I mean creating a better

Carter 1998; Shils 1997; Buss 1999). See also President Obama’s January 13, 2011 address honoring the victims of the Tucson Arizona shootings where he calls for a new era of civility along these exact lines (<http://www.nytimes.com/2011/01/13/us/politics/13obama-text.html>). This understanding of civility resonates with the mission of CDR practitioners as well and this is evident in correspondence on the National Association for Community Mediation listserv on the day following the President’s address. In those postings CDR senior staff, including one from a Toronto CDR included in this study, viewed Obama’s speech as a call to their profession to continue its work and realize its potential to generate relationships of civility, understood in this way, in their communities (emails on file with the author). The elasticity of the term civility and the varied appeals mediators make to it lend support to my suggestion that their relationship ideals are best conceptualized as a spectrum ranging from authentic to courteous friendliness.

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place to live- and to be very selfish- for me, but for the others [too]. (Nikola, CDR Volunteer)

Paul also stresses that relationship changes can serve to strengthen civic bonds between citizens and counter forces that are believed to hamper communal attachments in contemporary times. As a result of mediation, he hopes:

...that people are happier. That they don't feel so threatened, that they don't feel so alienated and alone, I mean I think community mediation goes some way toward connecting people and creating social relationships in a world, a society, frankly that, many things run in the opposite direction, alienate us from each other, isolate us from each other. (Paul, CDR Staff)

As in his relationship expectations cited above, Paul's statement again seems to operate at two levels, by putting emphasis on the absence of threat and alienation on the one hand, and the presence of social connection on the other. This suggests that at both ends of the friendliness spectrum that I highlighted above (authentic vs. courteous), practitioners see potential for transfer of the educative effects beyond the mediated relationship. As Courtney's comment illustrates, they believe that even small incremental changes have important and broad reaching consequences:

I think if little bit by little bit we can build that kind of neighborly relationship in our own backyard, those are the kinds of bonds that hold us together if some big crisis occurs. (Courtney, CDR Volunteer)

Finally, practitioners note their capacity, as facilitators of democratic talk, to contribute directly to improving the relationships among citizens in the political community. This angle on relationship building has not been much explored by democratic theorists who have tended to overlook the role of facilitators in participatory deliberative venues. But mediators note two ways that they contribute to strengthening civic bonds between citizens. First, they describe their role as "friendly strangers" who intervene in the lives of citizens in ways that can have lasting effects on their ways of relating to others.

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If anything maybe it teaches them that there are nice people out there. ... It's a big city and you feel like you're alone but there's people there, if you can just find the right place to go, who will listen. So I think that impresses them a lot. (Andrea, CDR Volunteer)

My experience indicates that people, the disputants, come away feeling cared about, that they appreciate just the attention that was paid, that they had a chance to have their say, they see that we treat them carefully and attentively. I think people are impressed with the care that we give and that we're genuine and that we listen. (Carly, CDR Volunteer)

In subsequent comments following this, Carly and other mediators in her focus group also stress the importance of their status as volunteers. The fact that mediators volunteer their time to assist others with conflicts is believed to make a lasting impression on participants and possibly alter their feelings towards other citizens more generally. To return to the two registers of “authentic” and “courteous” friendliness that I identified earlier, Carly's comments stress the capacity of mediators themselves to model feelings of care and generate authentic friendliness between citizens.

Mediators also see themselves as capable of contributing directly to the improvement of “courteous friendliness” by becoming enforcers of the boundaries of publically acceptable behavior. Nikola tells the story of a case where an elderly couple were in mediation to discuss conflicts in their marriage. When one participant used an anti-Semitic slur to refer to their long time spouse, he and his co-mediator decided they would not continue with the mediation. In doing so, he believes they sent a strong message to the participants that would change their future public behavior.

I mean I know that we didn't change their, whatever, their thinking about certain issues, I mean how can we in three hours or in an hour but I know that we changed, I'm convinced that we changed the way they address this in the public. (Nikola, CDR Volunteer)

Therefore, as Carly and Nikola's comments illustrate, mediators consider it their job to facilitate relationship changes between participants and also to be role models of both courtesy and care in citizen relations.

To sum up, mediator relationship expectations take priority in their discussions about the educative effects of the mediation process on participants. To the extent that they specify what they envision by "building relationships", they present friendliness as the ideal. They describe relationship changes that range from the generation of deep feelings of care and attachment (authentic friendliness) to more surface level changes establishing common courtesy (courteous friendliness). They maintain that such changes have transferable benefits on the wider political community, by strengthening civic bonds between parties and by changing the way participants relate to others more generally. Finally, mediators maintain that they play a direct role in generating friendly relations between citizens across the continuum by modeling both care and courtesy in their own interactions with mediation participants.

5.3 PARTICIPANT RELATIONSHIP CLAIMS

As I have indicated in earlier chapters, participants' narratives about their mediation experience and its lasting effects are dominated by discussion of their relationships with their conflict partners. In my analysis of the efficacy and interests categories this has provided cause for skepticism about the transferability of mediation's educative effects to circumstances outside the mediated relationship. This suggests, just as Sophie speculates in the excerpt above, that mediation's most important educative effects will be found in the relationship category. But while participant narratives are generally contained to discussion of the mediated relationship, they do not always describe changes that map onto the friendliness expectations of practitioners. Table 5.1 summarizes the relationship outcomes

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described by participants. Any assessment of relationship outcomes must take into consideration that participants come to mediation with different types of relationships to begin with. To acknowledge the important differences across cases, I separate participants into two categories according to the relational context of their mediation. Those in the “intimates” category include family and romantic relationships,¹⁴⁰ while those in the “neighbors” category include conflict partners that associate as a result of residential proximity.¹⁴¹ The table shows that a similar pattern of outcomes occurs in cases from these distinct relational contexts.

Table 5.1: Participant Relationship Claims¹⁴²

	Positive (29%)	? (75%)	
	Authentic Friendliness	Courteous Avoidance	Blatant Avoidance
Intimates (13)	5 (16%)	4 (13%)	5 (16%)
Neighbors (18)	4 (13%)	3 (10%)	11 (35%)
Total (31)	9 (29%)	7 (23%)	16 (52%)

My analysis of the relationship claims in participant narratives suggests that some post mediation relationships fit the friendliness ideals of practitioners. By coding these relationship claims as “friendliness” claims, I do not mean to proclaim that participants in all of these cases would describe themselves as friends. But I nevertheless find references to

¹⁴⁰ One exception to this is the case of Jaime and Anne who were close friends that lived together. Though they did not characterize their relationship in romantic or familial terms, their circumstances seem to fit best in the intimate category. See Table 2.4 in Appendix I for more details.

¹⁴¹ One exception to this is Loretta, who was in conflict with a former business partner. Even so, Loretta’s circumstances best approximate the “neighbor” category. See Table 2.4 in Appendix I for more details.

¹⁴² Participant narratives rarely include multiple competing relationship claims suggesting that these categories are mutually exclusive. My analysis found consistency within participant narratives from cases involving two people (one relationship). Narratives involving more than two people that still fit easily in to a two-party framework (for example involving two married couples) also had consistent relationship claims applying to “the other side” even when that involved more than one person (multiple relationships). In the multiparty cases (involving families), the potential for distinct relationship claims within a single participant narrative is higher because participants negotiate several relationships during the mediation. In these multiparty cases I did not prompt participants to specify the nature of ongoing relations with each of the multiple conflict partners present and therefore code only the relationship descriptions that are offered. In some cases participants provide one description generalizing about their relationship with all family members- these narratives were counted once in one of the two categories. In one case, Evelyn describes her relationship with several siblings as friendlier following mediation and relations with another as avoidant. I therefore counted both of these claims, once in each category, to reflect this mixed outcome. As a result the total in the “intimates” row of Table 5.1 exceeds the sample size by one. Percentages are calculated based on the total sample size of 31.

relationship change resulting from mediation that, just as practitioners hope, invoke genuine positive affect. I therefore call these “authentic friendliness” claims and find them in 29% of participant narratives. While this suggests that relationship expectations are indeed realized some of the time, there is little evidence that these relationship changes transfer beyond the particulars of the specific mediated conflict, and this limits their educative potential considerably.

Furthermore, in the remaining cases I find relationships claims that stress the theme of avoidance. According to my analysis, these avoidance claims take two distinct forms. The first, which I call “courteous avoidance” claims, share features with the more limited ideal of “courteous friendliness” that practitioners describe, and are present in 23% of participant narratives. These relationships claims invoke forms of courteous interaction that are superficial yet peaceful. But the theme of avoidance dominates these descriptions, suggesting that these relationship changes are much more reliant on *minimizing* interaction than they are on initiating or re-establishing courteous interaction between conflict partners. Practitioners do not highlight avoidance in their accounts of “courteous friendliness”, and its prominence suggests that these relationship outcomes do not entirely match even their more limited ideals. I label these as “courteous avoidance” claims to emphasize the prominence of the avoidance theme.

The theme of avoidance takes an even more prominent place in the remaining 52% of participant narratives. I call these “blatant avoidance” relationship claims. They range from accounts of actual physical relocation and complete severing of ties, to instances of intentionally limited interaction in contexts of continued involuntary proximity. These relationship claims depart starkly from the relationship expectations of mediation practitioners. I find however, that participants attribute these outcomes, at least in part, to

their experience in mediation. Furthermore, in a subset of cases where blatant avoidance is described, participants report they are pleased, relieved, and grateful for the outcome. Therefore, while there is evidence to suggest that mediation plays a role in generating relations of avoidance, and these outcomes run counter to participant relationship expectations, their normative value is unclear. In Table 5.1, I indicate this with a “?” over the courteous and blatant avoidance columns and explore their normative value further below. In the sections that follow I elaborate on each relationship category in turn, beginning with “authentic friendliness” relationship claims.

5.3.1 Authentic Friendliness Claims

Just as practitioners hope, there are instances where participants describe changes in their relationship resulting from mediation towards “authentic friendliness” (29%). To be sure, the significance and nature of authentic friendliness varies according to the context and history of particular relationships, but all cases in this category reference changes in internal feelings. In intimate contexts involving divorce and separation, they describe stable patterns of cordial interaction and in some cases even a stop on the return trip to romantic attachments.

We came out of there able to talk, we can talk. Um, and I'll try to help him when I can. (Lisa)

We tried the date thing and you know it was a little awkward at first but then we kind of got into it and then we started talking more, so, from before mediation to now, yeah it's a lot better. (Michelle)

In family contexts, it signals new stages in long standing relationships that are characterized by greater comfort and affection than before. Both Evelyn and Christine's comments illustrate this kind of relationship change between them and their siblings.

Just seeing who they are as people and liking them. And liking them through the process and admiring them through the process. I think was, and feeling closer to them in the process. (Evelyn)

I have felt more comfortable with him ever since. So that I think, like for me personally that's actually a very positive thing. ... That feels like that wouldn't necessarily have happened actually if not for that really difficult time in, within the process. (Christine)

Overall, 38% of participants with intimate conflicts credit their mediation experience, at least partially, for having generated a shift towards "authentic friendliness".

In the neighborhood context, authentic friendliness is sometimes restored or established as a result of mediation, but this is only described by 22% of those in mediation with neighbors. Not surprisingly, in comparison to intimates, friendly relations between neighbors are characterized by shorter histories and much more limited attachments. In one case, Sara describes becoming friendly again with her neighbor after a conflict between them resulted in police orders barring them from interacting. Since the mediation, she has agreed to babysit for her neighbor on occasion and says: "We talk now. She's a nice person."

In two other instances where no prior relationship existed, participants characterize their current relations as friendly. First, Jeffrey and Leslie explain that they now feel very comfortable calling the adult sons of their mentally ill neighbor when problems arise. Leslie explains how one of the sons extended this invitation at the end of the mediation "I mean joking around he says, Jeffrey why don't you invite us over for a beer." Second, Jeremy describes the difference that mediation made to his future relationship with the family whose business borders on his home. Since the mediation, he had received an email from the owner after an unusually noisy day at the business.

I don't think that would have happened before the mediation, that was a direct result of him meeting with me and with, with my neighbor down the street, and him realizing like ok, I better at least send them, you know this is why it happened, you know apologize and say sorry. That's fine. That goes a long way. (Jeremy)

As these examples illustrate however, the extent of the relationship change should not be overstated. Especially in the case of neighbors, these changes appear to be quite rare and suggest that only weak relationship effects follow from mediation. Furthermore there is little indication that these subtle movements towards friendliness have transferable effects on how participants interact with other citizens in general. In light of this, combined with the fact that the CDRs reach a relatively small number of citizens, and affect the relationships of even fewer in these ways, the effect of the community mediation process on the broader political community appears to be quite limited.

5.3.2 Courteous Avoidance Claims

The relationship claims in 23% of participant narratives invoke forms of courteous interaction that resonate with the more modest practitioner relationship expectations I called “courteous friendliness” in Section 5.2. These claims describe relations as outwardly peaceful despite underlying negative feelings. Beth characterizes her relationship with a sibling following mediation along these lines.

I’d say there’s just been a level of tension, we try to keep things pretty superficial when we get together. (Beth)

And Lorna explains how an exchange during the mediation helped to bring about this kind of relationship between she and her neighbor.

So we actually started saying that it feels really bad living next door to somebody that you can’t stand. Or well, I don’t know what the words we used, but, that it wasn’t a really good feeling and [he] said he missed the friendliness and the joking with me that use to go on before that, and I said that every time I pass his door my stomach turns. ... And actually after that ...it’s not like it used to be, it’s definitely not neighborly, but we’re trying to be civil. And, my stomach doesn’t budge anymore, I used to go to the back door usually to the downstairs just to avoid him. (Lorna)

Lorna characterizes her current relationships as “civil”, and situates it somewhere between the friendliness that predated the conflict and the blatant avoidance that she employed at its

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peak. Yet it is avoidance more than friendliness that seems to dominate the post-mediation relationships described here. Beth also suggests that she avoids discussing certain topics with her brother since the mediation. I call these “courteous avoidance” relationship claims to indicate the prominence of this theme.

As the examples from Lorna and Beth demonstrate, courteous avoidance claims are present in both intimate and neighbor contexts. In both contexts participants describe how following the mediation they opt to limit their interactions without completely severing ties.

I would say that over all it left me feeling less inclined to socialize with my siblings, just to have distance and I guess it left me feeling uncertain about how I was valued and so that lead me to turn my social attentions away you know to other friendships. (Norm)

Rita describes her avoidance of her neighbor as subtle, suggesting that she aims to limit their interaction as much as possible without overtly alienating him.

He will start a conversation with me and I don't get involved. Like, you know he says “what are you doing” or whatever and I'll state the obvious and then that's it like I don't try to continue the conversation. (Rita)

Although many courteous avoidance claims are tinged with disappointment, it is striking that Rita describes it as a positive outcome of the mediation. About the mediation she says that “what we've been able to accomplish was really good, I mean I wish it was more but you know if he's been doing that for ten, fifteen years, I don't think I'm going to change it.” But rather than wishing for more friendliness with her neighbor, Rita seems to be wanting more avoidance. Elsewhere she says “I wish we could have a six foot fence all the way in the middle and not have to deal with him.” She goes on to say “my wish would be, for him never to talk to me but I know it's not possible”. Rita does not consider a more pronounced form of avoidance to be possible in her situation, believing that if she insists on it she will offend her neighbor and generate more conflict between them. In other cases, however, participants agree to establish relationships of blatant avoidance following mediation.

5.3.3 Blatant Avoidance Claims

About half of the mediation participants I interviewed make “blatant avoidance” relationship claims. In the most extreme form of blatant avoidance, participants have literally moved away from neighborhoods where they encountered conflicts. This only occurred in two cases, and the extent to which their moves are related to the conflict is unclear.¹⁴³ Although the motives and reasons for relocation are no doubt complex, some interviews do suggest that moving is an option participants have seriously considered in response to conflicts with neighbors. Regardless of the precise reasons for these moves, their result is the total severing of relational ties with former conflict partners, an outcome quite overlooked by practitioners in their discussions of relational expectations. Their discussions of mediation’s desired relationship effects do not acknowledge that participants may sometimes end a relationship entirely following mediation. Something resembling this total separation also occurs in a handful of intimate relationships. In such cases, deliberate efforts to put physical distance between each other are accompanied by an end to or long breaks in communication, even when encounters continue to occur. Jaime describes how this unfolds:

I see her, sometimes she doesn’t see me and I just like disappear into the other direction ... We will never be friends again and that’s fine with me. (Jaime)

It is in cases like these where I find the only evidence that transferable effects beyond the mediated relationship occur. These broader effects, however, do not take the form that practitioners hope. For example, Catherine describes the general effect the experience had on her:

¹⁴³ In one case I was not able to interview the parties who moved but their neighbors believed they moved as a result of the conflict. In the other case, the party who moved was concerned about his liability with respect to the sale of his property should he go on record characterizing his move as a result of his conflict with the neighbor.

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What I learned is that I have to not be so open and not be so courteous and respectful...Like if I had a problem with someone now I wouldn't engage at all, I would simply go to the community liaison [police] officer. (Catherine)

And, as noted in Chapter 3, Loretta explains that the mediation experience lowered her general feelings of social trust.

It affected me because I have bias of people, I cannot trust people the same ... certain kind of people. When somebody's offering me a service I doubt and I think hum... I don't sign anything, I don't say anything, I am very careful what I say, I'm very careful. I don't use my feelings. I don't think that I have to help because it's not worth it. (Loretta)

This suggests that in rare cases, contrary to the expectations of practitioners, community mediation can teach citizens to adopt relational patterns that actually reduce their trust in and respect for fellow citizens and encourage them to eschew courteous behavior, opting instead to avoid direct interactions as much as possible.

Blatant avoidance is usually more limited in its scope and takes a less extreme form.

In the neighborhood context, participants continue to live alongside each other while avoiding encounters that might lead to conflict. But their avoidance in these cases is not subtle and often abandons the concern with maintaining appearances.

Sometimes, when we go in the elevator, if I'm coming up and he is there, I don't take it. Still. And if I'm downstairs and, and I want to go up and he is taking it, I wait for the other one. Yeah, because I give him his distance. (Beverly)

What is striking about comments like these is that participants express what seems to be a genuine preference for such arrangements, and a satisfaction with this sort of outcome following the mediation.

I try to stick on to what we agreed on and probably leave it and it is probably best to leave things that we have resolved the problems. It's to leave it as it is rather than take a chance trying to fix the relationship. ... I'm happy, and I think she's also happy ... we don't look at each other, we don't help each other, but we are at peace. (Victor)

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Victor agreed not to communicate with his neighbor Sylvia in any form except mail, even though they live next door to each other. He expresses a reluctance to work on changing this arrangement because he considers it risky to try to achieve a friendlier relationship with Sylvia and he does not want to “take a chance”. Not only is he unwilling to take that risk, he expresses contentment with their current arrangement of mutual avoidance and characterizes it as peaceful. Sylvia also reports sending a donation to the mediation centre as a gesture of how grateful she is for the result and says “my accomplishment, I hope, is that he leaves me alone. I don’t want him to exist in my life, and if this is the case you know, I’m happy.”

Similarly, when asked during her interview what she wanted from her conflict partners Martha replies “just leaving me alone, ha ha, being good neighbors”, suggesting that the two are equivalent in her view. Recalling one occasion prior to her mediation where she encountered one of her neighbors she remembers saying to him:

I said I don’t think we need this talk, I said that’s one of the reasons that fence is there so that you are on that side and I am on this side and to keep the peace, good fences make for good neighbors. (Martha)

Martha is not the only one to invoke the proverb made famous by Robert Frost that endorses avoidance between neighbors. The “good fences” attitude is shared by several participants including Victor, Sylvia, and Rita quoted above.

Blatant avoidance claims are present in 61% of the neighbor cases, but even 38% of participant narratives in cases involving intimates include blatant avoidance claims. For example, Dalia describes this as a central feature of her relationship with her mother following mediation:

Well there’s times where if she’s getting out of hand I’ll just hang up on her, instead of yelling at her. Because she tells me she doesn’t want me to yell, and I’m like fine, I will hang up on her. (Dalia)

She reports the benefits of this relationship:

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I only feel good now because I'm away from her. I don't get to see her on a regular basis, we don't really talk, we do but we don't. I don't get to hear her being, making me feel guilty for everything. I get to grow and be happy on my own, what I want. (Dalia)

Therefore across a variety of contexts, relationships following mediation are regularly characterized by patterns of avoidance. Though the extent and appreciation of avoidance is more extreme in the neighborhood context, even in intimate contexts involving long standing family relationships, this avoidance is common and even desirable according to some participants.

These findings suggest that, contrary to the aims of practitioners, mediation rarely contributes to building friendly relations between citizens. Though practitioners place greater emphasis on the broader social importance of establishing friendly relations between neighbors, it is in this context that participants tend to leave mediation with a greater determination to avoid each other. Furthermore their patterns of avoidance appear to be sustained not by trust and respect as "authentic friendliness" expectations practitioners highlight, but by mistrust and apprehension. It may not be surprising that in cases of extreme avoidance characterized by physical relocation participants have high levels of mistrust towards each other. In fact, in two such cases participants expressed concerns to me about the confidentiality of their interview and the possibility that their comments could be used against them by their conflict partners. As both noted to me, such concerns are concrete indicators of the lasting mistrust that can result following mediation, and I have already noted the few instances where this lasting mistrust appears to be more generalized.

What is more notable however, is that in cases where citizens remain in physical proximity mistrust is a salient feature of their ongoing relations. For example, Sylvia describes her feelings of mistrust towards Victor and the sense of threat they produce for her.

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I don't trust him, because as I say he's mentally off.¹⁴⁴ He's not normal. And what do I know what's going on in his brain? It could switch and who knows.
(Sylvia)

She explains that these feelings prompted her to put a lock on her backyard gate and motivated her to practice blatant avoidance. Furthermore, even instances of courteous avoidance appear to be sustained by feelings of mistrust and threat. In strikingly similar comments to Sylvia,¹⁴⁵ Rita talks about her feelings following mediation with her neighbor.

I don't know how long it will last but it certainly has given me a freedom of not feeling so fearful every day. I mean I'm still always on guard, I never know what to expect but at least with what we've done in the mediation, you know it's been a (sigh) I guess a better feeling for me. (Rita)

Rita's comments indicate that she considers her current relations with her neighbor to be improved but quite tenuous. This suggests that rather than restore or establish feelings of trust and respect needed to sustain friendly relations, most of the time following mediation feelings of mistrust and threat operate in ways that sustain patterns of avoidance, sometimes courteous and sometimes blatant, between citizens.

In Table 5.1, I place a “?” above the avoidance outcomes to indicate uncertainty about their implications for the educative effects of mediation. Practitioner expectations suggest these outcomes should be viewed as negative, and yet, several participants welcome them. But before exploring further the normative merits of avoidance as a relational outcome, its relationship to the mediation experience needs further elaboration. Particularly

¹⁴⁴ The presence of mental illness is certainly a factor which complicates our conception of ideal relations between democratic citizens. It is beyond the scope of the present project to explore in more detail the standards that might apply to relations involving mental illness. For now I wish simply to note that a) although accusations of mental illness are a regular feature of these conflicts they are not necessarily reliable indicators of any person's actual mental health, and b) that my field work suggests mental illness may be prevalent enough amongst everyday citizen conflicts that we cannot so easily bracket it as an exceptional case not relevant to our normative ideals.

¹⁴⁵ A reoccurring pattern across the mediation cases I heard about involve single women feeling harassed, bullied and even targeted by their male neighbors. In addition I encountered cases where parties felt similarly targeted because of their sexual orientation and/or gender identity. These cases suggest that gender dynamics have strong potential to influence perceptions of danger and threat in citizen interactions. I return to this in Chapter 6.

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because of the preference some participants express for avoidance, it might be that these outcomes are simply an indication that mediation has had no effect on participant relationships. I find however, several indications that the mediation experience actually plays a role in generating avoidant relationships.

In some cases, mediated agreements serve to support or reinforce avoidant relationships following mediation. Sylvia and Victor's mediation agreement codifies a pattern of avoidance by stipulating that they will only communicate in writing despite being neighbors. In other cases, participants report that agreements serve to enforce avoidance in less direct ways. Rita describes the written agreement she and her neighbor fashioned as a way to help manage their mutual mistrust:

It goes back to the paper we've signed that he said and now his signature is on it so if it was really something and the police was called, we have a paper that says he had agreed ... he's the one that would look foolish if he then changes his mind. (Rita)

According to Rita, the written agreement becomes a way to minimize interaction between she and her neighbor, and to reduce the likelihood that further conflicts will arise. In her view, this is not because of a true change in feelings on either party's part, but because of possible humiliation and hassle that could arise if police are contacted. In another case, Jaime and Anne work out an agreement in mediation that resolves practical (mainly monetary) problems arising from the end of their shared living arrangement. By helping them to address those issues, mediation enables them to adopt blatant avoidance. In each of these cases it appears that, without the agreements negotiated in mediation, relationships of avoidance would not necessarily have been established or sustained.

Other times, patterns of avoidance seem to emerge independent of the agreement reached or in response to the inability to make agreements during mediation. In these cases,

participants suggest that the mediation experience reinforced or generated an unwillingness to interact with conflict partners.

Lauren: You know, in regards to the first part of your question, whether or not it had any impact on our relationships, with my siblings, like I said it made me not want to go there. So that's really the only thing I can say, it's not something that we've talked about since. ...

Heather: And so this feeling of not wanting to go there, would you say it was present prior and it lasted through or did it strengthen from that sort of "close encounter"? ...

Lauren: I believe it was present prior and probably was strengthened after the initial experience with my siblings.

Heather: And did that have to do with certain things that occurred in the [mediation] process?

Lauren: It had to do with being in this group facilitation, counseling environment with my siblings, and being really resistant to that.

Alice: I don't know, I'd wanted to forget about it. I don't feel, I don't like being involved so much ... I don't know that I would do it again

Heather: the mediation?

Alice: ah ha

Heather: why is that?

Alice: because it's been a lot of hassle, a lot of disruption, a lot of thinking about things that I can't do anything about.

I felt at the end of this that the mediation process, for whatever reasons, I don't know if I could identify them, did more to confirm a destroyed or burned bridge than mending one. (Jonathon)

In these examples, participants identify the mediation process specifically as a moment that solidified their motivations for avoidance. The mediation experience therefore plays a role in generating relationships of avoidance in two distinct ways. First, by leading to written agreements that codify, reinforce, or enable avoidant relations, and second, by confirming the limits of face-to-face interaction in ways that prompt participants to avoid each other. Although this is not the sort of effect practitioners emphasize, it does suggest that the mediation process has a lasting effect on participants' relationships.

What about the effect of interactions with the mediators themselves on the participants? Recall that this is a second way practitioners claim to be building relationships

between citizens. As I discussed in Chapter 3, participant narratives do highlight the importance of their exposure to the services offered by CDRs, their interactions with CDR staff, and especially volunteer mediators in ways that suggest a lasting significance. These references come not only in the form of reliance claims discussed in that chapter, where participants express gratitude and comfort in knowing they can “fall back” on the mediation service in the future. They also make reference to the fact that mediators are volunteers and to the impression that left on them. This is exemplified in comments from Lorna and Christine about the mediators of their cases:

I think they're amazing, to think that they're doing this as volunteers, I think it's just mind blowing. (Lorna)

I remember that we were genuinely very grateful to these two people for having you know, I mean my understanding is they were both volunteering and we're not an easy group to deal with, I mean we're intense and there were a lot of us, and they were very patient and kind. (Christine)

Unfortunately, in my interviews with participants I did not probe in depth for what, if any, lasting effect these impressions about volunteer mediators have on participants. Though their comments suggest that these encounters left lasting impressions on them, they do not give any indication that their impressions have these more generalized effects. Further speculation on this aspect of mediator relationship expectations will, in any case, have to await more research.

5.4 CONCLUSION

To sum up, Toronto CDR practitioners envision the educative potential of community mediation through a relational lens that idealizes friendliness, both genuine and feigned. Their accounts of ideal relationship outcomes suggest a spectrum that ranges from the generation of deep feelings of attachment to more surface level behavioral changes. Although they stress the value of rather modest shifts in feelings and behavior, their desire

to change relationships is ambitious and conceptualized in transferable terms that are believed to help establish a more connected community of citizens. As I have outlined above, in some cases participants do describe changes in their relationships that resonate with the friendliness expectations of practitioners and attribute these changes to the mediation process directly (authentic friendliness). But participant accounts of their relationship outcomes are also rife with descriptions of avoidance, in both courteous and blatant forms, and these are also attributed to the mediation experience. These avoidance claims do not map easily onto the spectrum of ideal outcomes described by practitioners, and the accounts of “blatant avoidance” in particular fall short of even the most modest relationship expectations.

One might interpret these results as failures and as evidence that community mediation’s potential to generate educative effects should be called into serious question. Indeed, the findings presented here suggest that, at least in the case of the Toronto CDRs, efforts to build the friendly citizen are not usually successful and that a healthy dose of skepticism with respect to educative claims is warranted.¹⁴⁶ But several features common to a subset of the accounts of avoidance suggest an additional conclusion. While representations of avoidance as an ideal outcome are absent from practitioner accounts, some participants express contentment with these arrangements. For example, recall Victor’s characterization of the post-mediation relationship he has with Sylvia: “I’m happy, and I think she’s also happy ... we don’t look at each other, we don’t help each other, but we are at peace.” Victor’s description applies more broadly to several of the avoidance cases and reminds us that avoidance can serve to establish and sustain peaceful relationships between conflict

¹⁴⁶ In the next chapter I will turn to a discussion of 1) the relevance of these claims to the field of community mediation more broadly and 2) implications of these findings for the educative potential of participatory deliberative processes more generally.

partners who have had difficulty getting along for one reason or another. Furthermore, the avoidance cases highlight that participants avoid in response to feelings of psychic and physical threat that cannot be entirely resolved or eliminated through the mediation process.

This suggests that blatant avoidance can be construed as an alternate ideal relationship outcome. Casting blatant avoidance in this normative light runs counter to the way mediation practitioners and theorists describe their desired outcomes- even in their most modest manifestations. It also differs from the ideal espoused by democratic theorists because it does not rely on bonds of affection or feelings of trust or model itself on even the appearance of friendliness. To be sure it overlaps to some extent with common courtesy, in the sense that it enables social peace without depending on genuine positive feelings. But blatant avoidance is distinct because it dispenses with even the pretense of friendly or polite behavior in exchange for distance and disinterest. It suggests that it is possible, and even appropriate in certain cases, to get along without liking each other, and without even pretending to like each other. Therefore, this analysis of mediation's relationship effects suggests two major conclusions. First, it suggests that building the friendly citizen is not often possible. Second, it suggests that what is more likely, blatant avoidance, is sometimes more desirable according to participants. As I will elaborate in the next chapter, this ought to inform the ideals espoused by practitioners and theorists of mediation and deliberation more widely, as well as democratic theorists concerned with articulating the ideals of everyday democratic citizenship.

Chapter 6

Rethinking the Educative Potential of Deliberative Moments

6.1 INTRODUCTION

I began by highlighting the better citizen claims advanced in theories of participatory and deliberative democracy, which locate the value of participatory deliberative collective decision making in its capacity to improve the democratic skills and dispositions of citizens. Such claims are advanced alongside better decisions claims, that emphasize the way the decisions themselves are more legitimate, just, etc. I argued that, given the normative weight better citizen claims often carry, they have not been sufficiently elaborated theoretically or investigated empirically. In an effort to address this, I parsed the better citizen claims of participatory and deliberative theorists into three analytical categories of efficacy, interests, and relationships. Next, I argued that existing efforts to typologize the broad range of deliberative venues has not been organized from the perspective of better citizen claims. To address this, I proposed three spectrums along which a deliberative venue can be situated that are relevant to its potential educative effects: collective decisions, scope, and intensity.

I identified community mediation as a deliberative venue located on each spectrum toward the end most likely to yield educative effects, according to theoretical expectations. I suggested that existing empirical research has not tended to focus on similarly situated deliberative venues nor has it conceptualized educative effects in ways that are consistent with the theoretical accounts. I argued that the logic of studying community mediation is that it presents a context where educative effects are most likely to occur. Not finding educative effects in this context would raise considerable doubts about the educative potential, not only of mediation, but for deliberation more generally. As I have described in the preceding chapters, my findings from research at two CDRs in Toronto do indeed raise

doubts about the educative effects of community mediation suggesting there is good reason to question the better citizen claims of deliberation enthusiasts more broadly.

My interviews with mediation practitioners and participants in Toronto suggest that the experience of conflict can be educative. Their stories highlight that when we bump up against other people in ways that make us feel badly or prevent us from having what we want, the experience can be intense, challenging and require us to think, feel, and behave in new ways. In other words, conflict provokes adaptation. This is part of the reason I have argued that the community mediation process is a deliberative venue with high educative potential- because participants are much more likely to be deeply invested in the content and outcome of the deliberation, and thus more likely to commit the psychic resources necessary to generate educative effects. And yet, this study of community mediation makes clear that the experience of conflict does not fit neatly within the boundaries of one particular deliberative moment. This not only makes it difficult to isolate the effects of that moment, but also suggests that to expect dramatic adaptations to regularly follow from that moment is misguided.

While a wholly dismissive view of better citizen claims is not borne out by the evidence of modest educative effects I find in a minority of cases, it provides reasons to moderate standard better citizen claims considerably. What is more, when adaptations do appear to occur as a direct result of these deliberative moments, they do not necessarily conform to the “good citizen” ideals articulated by deliberative and participatory democrats, suggesting that the ideals themselves may require reconceptualization. These are the two main findings of this study. In the next section, I elaborate on these findings and their explanations in the context of my field work at the Toronto CDRs, acknowledging the

study's limitations. In the remaining sections, I discuss the implications of my findings for the theory and practice of deliberation and for democratic theory in general.

6.2 DOES MEDIATION AT THE TORONTO CDRs MAKE BETTER CITIZENS?

In the participant interviews I conducted, the community mediation process is one, often relatively brief, moment in the narrative told about a broader conflict experience. To be sure, this is part of the methodological challenge of relying on self-reports to capture the discrete effect of one deliberative experience, but it is also a relevant finding in itself that raises doubts about the educative effect of the mediation process. If the mediation experience does not often stand out in participants' minds as a "turning point" in their conflict narrative, then we should be all the more hesitant to attribute remarkable educative effects to it.

As I have outlined in the previous chapters, in a minority of cases, there are clear indications that the mediation process specifically provides the opportunity for an exchange between conflict partners that generates increased efficacy, interest clarification, and/or relationship change. That is, participants describe a change along these lines *and* connect the change back directly to the deliberative moment of their conflict, that is, the mediation. Overall, educative claims are limited and modest, and additionally participants are not always able to make clear distinctions between the broader conflict narrative and the mediation experience in particular. At times, participants report changes but with less certainty or specificity that traces it back to the encounter in mediation. These accounts suggest generally that the conflict experience generated educative effects but make it harder to say with confidence that the deliberative moment of mediation is responsible for the change. The difficulty participants have isolating their educative claims to the mediation experience, and their reluctance to do so in certain cases reinforces my conclusion that the process alone is

not often educative, at least not in a sense that maps on to the educative aspirations of mediation practitioners and democratic theorists.

According to theorists and practitioners, central to the realization of mediation's educative potential is the idea that the changes participants experience are transferable- that they extend beyond the mediated relationship and change the way participants think, feel, and act in their everyday lives more broadly. I have found very scant evidence of this kind of generalized educative effect in the post-mediation narratives of participants. Those that do make educative claims concerning efficacy and interests often do so in ways that are limited to their mediated relationships. When they describe increased feelings of efficacy, those are limited about half the time to future interactions with conflict partners. When they describe increased understanding of their own interests and the interests of others, they almost always pertain to the mediated conflict and do not spill over into lasting dispositions of reflectiveness or broader socio-political analyses of conflicts. Participants rarely describe changes that are broader in scope. But even when they do, they are especially hesitant to attribute them to the mediation specifically or to express with certainty that a lasting change of that breadth has occurred. In general, the broader the educative claim, the less clear is its tie to the deliberative moment in mediation versus the conflict experience overall. Together these findings suggest that it is appropriate to temper educative expectations considerably.

The finding that educative effects of mediation are limited to future interactions with mediation conflict partners suggests that mediation's educative potential is realized when it comes to the relationships category that are the focus of Chapter 5. Yet as I discussed there, there are at least two reasons to be skeptical that mediation will often yield dramatic educative effects with respect to relationships. First, the idea that restoring or establishing friendly relations between conflict partners is educative relies on the same transfer

assumptions that operate for efficacy and interest expectations. By generating an exemplary experience in the mediation, theorists and practitioners hope to have broader effects on the way participants relate to fellow citizens in general. But when participants describe friendlier relations with their conflict partners following mediation, there is little connection made to other relationships. Though the increased friendliness in these cases is a partial realization of educative aspirations, it is far less clear that this has lasting effects on the wider political community. Second, descriptions of friendliness are not only limited in their scope, they are also dwarfed by descriptions of avoidance in participant narratives. Therefore, in the area where mediation's lasting effects appear most potent, the outcome is only a partial fulfillment of and at times appears incompatible with the ideals of mediation practitioners. Later in this chapter I will explore further the idea I proposed in Chapter 5, that some forms of avoidance point to a conception of good citizenship that is overlooked by deliberative theories. For the moment however, I take those conceptions at face value and therefore conclude that the relationship claims of participants, like their efficacy and interest claims, reinforce the conclusion that educative effects are unlikely and limited in their scope.

My findings also suggests however, that a fully skeptical view, one that rejects the idea that mediation can ever be educative in any meaningful sense, is not borne out by participant narratives either. Though they are limited in their frequency and scope, a minority of participant narratives do make modest educative claims about the mediation process in all three categories of efficacy, interests, and relationships. Their frequency, scope, and depth suggest that educative effects cannot carry the normative weight that is often attributed to them. But their consistent if modest presence confirms that they should not be abandoned entirely as aspirations that are (at least partially) realizable. The findings I have presented in the preceding chapters also suggest that mediation very rarely produces the deleterious

effects attributed to it by its harshest critics. The worst fears about the mediation process's "counter-educative" effects- that it could reduce efficacy, obfuscate interests, and harm relationships- are not generally realized in participant mediation narratives. While most narratives suggest little or no educative effects, they do not suggest that mediation actively undermines these goals the rest of the time.¹⁴⁷

Table 6.1 provides a condensed summary of the educative claims for each participant and an overall assessment of the educative effect across all three categories.¹⁴⁸ Educative claims are highlighted in bold throughout the table. The right-most column provides an overall summary of the educative outcome reported by each participant. The "Yes" category includes those participants who make educative claims across all three categories. Mixed outcomes are those that include claims in two categories, and "No" outcomes include claims in one or no categories.¹⁴⁹ This assumes a cumulative approach to measuring educative effects across all three categories. That is to say, it takes as most successful (from the standpoint of educative aspirations) those cases where participants make educative claims in all three categories. This approach to evaluating overall educative effects recognizes that the three categories are not entirely independent of each other. For example, those with a

¹⁴⁷ The exception to this is Loretta who has lasting resentment towards the mediators for pressuring her into a settlement she regrets. She suggests that the experience taught her to be less trusting of people and to manage conflict through formal court processes where she expects things will be more fair. Loretta's experience underscores the importance of self-determination. Though educative effects do not flow automatically from self-determination in the process, when it is violated in the way Loretta reports, "counter-educative" effects are possible. In other words, though it is rare that participants report such serious departures from mediator norms of practice, when they do the process can become counterproductive from the standpoint of educative goals.

¹⁴⁸ The efficacy category, described in more detail in Chapter 3, is the most difficult to summarize because it is broken down into three distinct thematic subcategories. To simplify the table, only those efficacy claims that most correspond to practitioner expectations are included in the table. Confidence in this table therefore indicates a "high confidence" claim, reliance indicates a "self-reliance" claim, and capacity indicates a listening or assertion related skills claim. For a more detailed discussion of these and other efficacy claims see Chapter 3.

¹⁴⁹ Based on my analysis, participants who made one educative claim in their narrative did so in ways that were too limited to correspond to the educative expectations of practitioners, even in their most modest form. I therefore grouped them in the "No" category with those participants who made no educative claims at all in their interviews.

Table 6.1: Summary of Educative Claims

Participant	Efficacy	Interests	Relationship	Educative Effect?
Alan	Confidence Self-Reliance Capacity	Other	Friendly	YES
Alfred	None	Divisive	Blatant Avoidance	NO
Alice	None	Misunderstanding	Courteous Avoidance	NO
Anne	Confidence Capacity	Misunderstanding	Blatant Avoidance	NO
Beth	Capacity	Other Misunderstanding	Courteous Avoidance	MIXED
Beverly	None	Divisive	Blatant Avoidance	NO
Catherine	None	Divisive	Blatant Avoidance	NO
Christine	Confidence Capacity	Misunderstanding	Friendly	MIXED
Dalia	Confidence	Misunderstanding	Blatant Avoidance	NO
Debbie	None	Divisive	Blatant Avoidance	NO
Evelyn	Self-Reliance Capacity	Other	Friendly Blatant Avoidance	MIXED
Jaime	Confidence	Misunderstanding	Blatant Avoidance	NO
Jeffrey	Confidence	Other	Friendly	YES
Jeremy	Self-Reliance	Other	Friendly	YES
Jonathon	None	Divisive	Blatant Avoidance	NO
Julie	Self-Reliance Capacity	Other	Blatant Avoidance	MIXED
Lauren	None	Misunderstanding	Courteous Avoidance	NO
Leslie	Confidence	Other	Friendly	YES
Lisa	Confidence Capacity	Other	Friendly	YES
Loretta	<i>Negative</i>	<i>Coercion</i>	Blatant Avoidance	<i>NO [Negative]</i>
Lorna	None	Other	Courteous Avoidance	NO
Lynn	None	Divisive	Blatant Avoidance	NO
Martha	None	Misunderstanding	Blatant Avoidance	NO
Max	None	Other	Blatant Avoidance	NO
Michelle	Capacity	Other	Friendly	YES
Kyung-min	None	Other	Courteous Avoidance	NO
Norm	None	Misunderstanding	Courteous Avoidance	NO
Rita	Confidence	Misunderstanding	Courteous Avoidance	NO
Sara	Confidence Capacity	Other	Friendly	YES
Sylvia	None	Divisive	Blatant Avoidance	NO
Victor	Capacity	Other	Blatant Avoidance	MIXED

(n = 31)

Table 6.2: Summary of Educative Effects

TOTAL	Efficacy		Interests		Relationships		Educative Effect?	
n = 31	Confidence	20 (32%)	Other	14 (45%)	Friendly	9 (29%)	YES	7 (23%)
Percentages are calculated based on the total of 31.	Self-Reliance	4 (13%)	Divisive	7 (23%)	Avoidance	23 (75%)	MIXED	5 (16%)
Totals do not always add to 100% because some narratives include multiple claims and not all categories are shown here.	Capacity	10 (32%)	Misunderstanding	10 (32%)			NO	19 (61%)
	Coercion			1 (3%)				
	# of Categories							
	None	14 (45%)						
	One	9 (29%)						
	Two	6 (19%)						
	Three	1 (3%)						

“friendly” outcome in the relationships category almost always make educative claims in the other two categories as well. This suggests that change in relationships towards friendliness depends on, but is not necessarily determined by, efficacy and interest changes. As I noted in Chapter 2, my intention in parsing educative effects into the categories of efficacy, interests, and relationships and treating them in turn in the preceding chapters has been to isolate them for analytical purposes. It has not been to suggest that they are entirely independent of each other. The analysis summarized in Table 6.1 acknowledges the interdependence between the three categories by considering those cases with effects across all three categories as the strongest educative outcomes.

This is reported by about a quarter of participants, as is made clear from the totals and corresponding percentages shown in Table 6.2.¹⁵⁰ Though the table does not convey it, the analysis in the three preceding chapters by now has revealed that even here, where the evidence of educative effects is strongest, there is minimal indication of transfer outside the mediated relationship. About half of all efficacy claims, and almost all interest and relationship claims are made with specific reference to the mediated relationship. The same is generally true for the 5 participants that have “mixed” educative outcomes (16%). Yet the educative claims made by these participants are mixed not only in the sense that they do not transfer beyond the mediated relationship. Even within the limits of that relationship, when placed in the context of the broader narrative, the presence of educative claims in some categories is combined with their absence in other categories and/or alongside claims that run counter to educative expectations. This can be because of mixed outcomes in multi-

¹⁵⁰ The Efficacy column presents the totals in two formats. The frequencies for each of the three kinds of efficacy claims (confidence, reliance, capacity) are included with corresponding percentages. Because these categories are not mutually exclusive I also report the number of participant narratives that include all three kinds of efficacy claims, only two, just one, and none. These numbers provide an indication of the cumulative efficacy effect and indicate that dramatic effects are rare. Because there is minimal overlap in the interests and relationship categories, simple totals provide a clear indication of educative outcomes in those columns.

party cases with respect to different conflict partners, or because of partial success vis-a-vis a single conflict partner- as in Beth's account of non-reciprocal interest clarification. More than half the time however, as Table 6.2 shows, participant narratives suggest that no educative effects result from the mediation.

Participant interviews suggest at least two reasons why more dramatic educative effects are not attributed to the mediation experience. First, as I have already discussed above, often much of the conflict unfolds before the mediation takes place and continues to unfold, in some sense, after the mediation as well. This means that the mediation is not salient enough in the conflict narrative to be a memorable educative moment for participants. In those cases where it does generate notable educative claims, it is described as a catalyst in a more long term educative process associated with the relationship or broader life narrative of the participant. This does not eliminate the role played by the mediation in the educative process, but reduces its claim significantly to being a sole cause. Second, as I have elaborated in the preceding chapters, participants do not come to the deliberation seeking the same changes that practitioners and theorists seek, and my interviews suggest this disconnect goes beyond what is typically acknowledged by practitioners. Beyond being more oriented to instrumental outcomes than practitioners, participants do not often conceptualize mediation as an educative opportunity and their experience diverges from practitioner expectations in ways that are incompatible with educative aspirations.

In the case of efficacy expectations, participants do not conceptualize the mediation as a remedial experience, nor do they diagnose the conflict as a result of their lack of deliberative skills. Far from transforming conflict dunces into conflict experts, at best, the mediation appears to offer a "refresher" for participants who already consider themselves relatively capable communicators. In the case of interest expectations, again many

participants are not looking for the “mutual understanding” that forms the basis of mediators’ educative aspirations. Some are actually seeking mediation for the exact opposite: a controlled environment with formalized process and strangers observing that will insulate them from delving into the emotional or psychological content of their conflict. When they are seeking such understanding, the mediation is more likely to “teach” participants about the barriers to psycho-emotive interest clarification. This lesson does not prompt them to devote greater attention to self-reflection and perspective taking as practitioners hope. And finally, with respect to relationships, a significant proportion of participants are not interested in developing friendly relations with their conflict partners, even when those partners are members of their own family. Some are not even interested in pretending to be friends for the sake of peace. Feelings of psychic and physical threat instead prompt avoidance in various forms. Those participants who had hoped to deepen their relationships with conflict partners occasionally get their way, but just as often they are disappointed by their inability to do so and settle for avoidance instead.

In the remainder of this chapter, I will discuss the implications of these findings for the better citizen claims of deliberative theorists and practitioners. First, several caveats are relevant to a discussion of how the findings of this research at two Toronto CDRs relate to broader conclusions about the educative potential of community mediation and CDRs more generally. To start out, my purpose in this study has been to explore the educative effect of deliberation and to study community mediation as a *deliberative* process. This motivates my exclusive focus on the mediation process narrowly defined, where citizens meet face-to-face. I have not claimed to be offering a comprehensive assessment of the educative effect of the Toronto CDRs in all of their work. To say that the mediation process itself achieves only modest educative effects is not to say that the Toronto CDRs may not have more dramatic

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educative effects through other aspects of their work. This possibility is certainly not lost on Toronto practitioners who often emphasized to me their belief that important lasting changes occur as a result of the CDR's overall community mediation program casework (including intake phone calls and case development meetings) and not simply from the mediation process.

These claims are all the more plausible in the context of the Toronto CDRs given the relatively in depth casework they conduct, most notably through case development meetings where mediators meet in person and in private with each party to the conflict prior to the mediation. Because they view their work more broadly than the mediation process, mediation practitioners may be less concerned about isolating the overall educative effect of the mediation encounter itself. While I did not find much reason in the conflict narratives of participants to think that a broader definition of "the mediation process" that includes intake and case development would lead to significantly different conclusions, this was admittedly not the focus of my research.¹⁵¹ My research has also overlooked the possible educative effect of the Toronto CDRs for staff and volunteers themselves and has not taken into consideration all of the work they do that falls outside the community mediation program.¹⁵²

Nevertheless, my exclusive focus on the mediation process remains important for the field of community mediation and to CDRs generally. This is because, the importance of the other work CDRs do notwithstanding, the mediation process is the centrepiece of normative claims about community mediation. This research suggests that the deliberative moment of the community mediation process, where participants meet face-to-face with a

¹⁵¹ One way to explore this possibility further would be to include those cases that went through intake and case development but did not proceed to mediation- cases like these have been excluded from this analysis.

¹⁵² A comprehensive look at the educative effect of the Toronto CDRs would need to take into account many other facets of their work including, but not limited to, casework that does not proceed to mediation, training and mentoring of staff and volunteers, training offered to the public, and a host of other projects that fall outside the community mediation program including youth work, court-related work, and organizational consulting.

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mediator to discuss matters of shared concern, does not meet the educative aspirations that some mediation advocates have attributed to it. It calls into question the arguments of those who base community mediation's normative value on its "transformative" effects (Bush and Folger 2005; Shonholtz 2000; Wahrhaftig 2004; Herrman 2006). It suggests that educative outcomes are possible but rare and limited and that claims about the normative value of mediation should not rest too heavily on its educative potential. It calls for restraint in attributing dramatic changes of this kind to the mediation process.

Certainly the scope of this research requires caution in drawing overly broad conclusions that generalize to all CDRs. To start, I have only interviewed 31 mediation participants. I have also conducted the field work at two organizations that share a common geography, philosophy and practical approach to community mediation. The experiences I heard about here may not match the experiences of participants at other CDRs and it is certainly possible that more dramatic educative effects result from the mediation process in other organizational contexts. It is worth recalling however the logic behind selecting the Toronto CDRs as the site for this research. The approach and structure of their community mediation program is especially focused on educative goals. My interviews with practitioners confirmed that this commitment is shared by most staff and volunteers. While my research did reveal that mediation cases at the Toronto CDRs do not always match the ideal process as described in training and interviews, it did not suggest that limited educative effects can be explained by mediator strategies or shortcomings.¹⁵³ Instead, it suggests that the barriers to educative effects stem more from the orientation of participants, the psycho-emotive complexity of their conflicts, and the experience of danger and threat they have during their interactions. It is not likely that such factors are unique to Toronto and it is therefore

¹⁵³ For further discussion of mediator techniques and strategies see Section 6.3.3

unlikely, given the energy invested by Toronto CDR practitioners into generating educative effects, that the outcomes here would be far surpassed in a different context. Therefore, while this study certainly does not exhaust the need to investigate this question further in other CDR contexts, it recasts educative expectations in a way that is relevant to community mediation advocates in general. In the next section, I discuss the relevance of these conclusions to the study of deliberation more generally.

6.3 DOES DELIBERATION MAKE BETTER CITIZENS?

The rationale I have presented for studying deliberation in the context of community mediation is that it presents a crucial case for investigating educative goals. This is because community mediation is a deliberative venue with features that, according to theoretical expectations, make it most likely to generate educative effects: it empowers participants to make binding collective decisions in face-to-face settings, has high intensity, and addresses issues that are limited in scope. In Chapter 2, I suggested that not finding educative effects in this context would raise considerable doubts about the educative potential, not only of mediation, but for deliberation more generally. My findings, summarized above, do indeed raise doubts about the educative effects of community mediation and suggest there is good reason to question the better citizen claims of deliberation enthusiasts more broadly. In addition to casting doubt on deliberation's better citizen claims, the study of community mediation has generated several insights that are relevant to the wider study of deliberation. These insights, which I elaborate below, relate to the centrality of relationships, the educative potential of deliberation in conflict settings, and the role of moderators.

6.3.1 The Centrality of Relationships

First, the mediation context points to a strong connection between relationships and the educative potential of a deliberative venue. Mediation participants are usually

deliberating under circumstances that include a relationship history produced by intimate ties or residential proximity. This relational context has proved highly relevant to the educative effects reported by participants because their efficacy, interest, and relationship claims are usually limited to descriptions of their ongoing interactions with their mediation partners. Contrary to the aspirations of practitioners, they rarely attribute changes to the mediation that transfer to their interactions with others in a broader sense. If the lasting educative effects of mediation are tied to the mediated relationship, this suggests that deliberative venues where participants have less tangible pre-existing relationships will not be able to generate even these modest educative effects. In deliberative settings where participants are in relationship for the first time because of the forum or in less tangible ways than they are in mediation, we should not expect the kinds of changes observed in the mediation context to be possible.

But perhaps this conclusion overlooks the fact that what makes the relationship circumstances in the mediation context unique is that they actually comprise the content of the deliberation in a way that is not likely in settings where the scope of the issues are broader and more public. If in fact this is the relevant distinction about the mediation process, it suggests that educative effects in other deliberative contexts will not transfer beyond the issue at hand. Participants may understand a particular issue better but this is not likely to transfer to other issues or change their approach to politics more generally. At this point, the distinction between better decision and better citizen claims begin to collapse. Further study of deliberative venues with broader issue scope and different relational contexts are needed to test these speculative conclusions. In the meantime, these findings from the mediation context suggest, at least provisionally, that the normative justifications for deliberation may need readjustment.

6.3.2 The Double Bind of “Hot” Deliberation

Second, the mediation process has generated insights about the educative potential of deliberation in contexts of high conflict, which Fung has called “hot deliberation” (Fung 2007b). Fung notes that “as far as I know we have no empirical evidence regarding the relevant merits, and appropriate circumstances, of hot versus cold deliberation” (165). My research has highlighted what I refer to as “the double bind of hot deliberation” from the perspective of educative effects. While the conflict context does appear to produce the psychic investment of energy and resources needed to generate educative effects, it also produces barriers to their realization. The study of mediation has revealed that when people are in conflict, and particularly one that is challenging enough for them to bring in facilitators to formally convene a deliberative moment for confronting it, their experience is not consistent with the better citizen ideals of theorists and practitioners.

Their experience is usually one that makes interdependence more than self-determination salient, one that highlights the limits rather than the power of talk to generate mutual understanding, and one that often needs to be managed through relations of pretense and avoidance instead of genuine care and friendliness. As I will discuss in the next section, these outcomes appear to draw on a different mode of citizenship than the one that is embodied in standard better citizen claims. Taking those standard claims at face value however suggests that neither cool nor hot deliberations are likely to have dramatic effects on efficacy, interests, or relationships. While “cool” deliberation lacks the preconditions thought necessary to generate educative effects, “hot” deliberation creates circumstances that stand in their way.

6.3.3 The Role of Moderators

Third, the mediation context highlights the role played by moderators in contributing to the educative potential of deliberation. It suggests that practical tensions arise when moderators are oriented towards educative goals. Specifically, mediators' desire to have participants hear and understand each other at a level that can generate lasting changes to their dispositions and relationships can motivate interventions that run counter to self-determination, a principle at the heart of deliberative processes. For example, in the introductory training at the Toronto CDRs, mediators are instructed to formulate and ask participants questions with the intention of uncovering the psychological and emotional content of the conflict. They are further instructed to ask participants to paraphrase each other's statements back to each other in order to confirm that they are hearing one another.

Structuring the communication process of participants in the mediation to that extent has paternal overtones. Though it does not overtly pressure participants to agree or settle, it pressures them into an artificial communication process that they may find condescending. Though this level of process control may not be adopted by moderators in other contexts, the example illustrates how an educative agenda can establish a temptation to become paternal in ways that are in tension with the core value of participant self-determination. This is an area of considerable debate in the mediation field¹⁵⁴ and suggests lessons for deliberative theorists and practitioners more widely. I have presented evidence above to suggest that moderator strategies and techniques are not usually successful in realizing educative goals at the Toronto CDRs.¹⁵⁵ In addition to this however, I have found that there are practical risks associated with the pursuit of educative goals in deliberative

¹⁵⁴ See for example Bush and Folger (2005).

¹⁵⁵ This evidence nevertheless has its limits. I have not observed many mediations directly or interviewed mediators in depth about the strategies and techniques they use. Further research is needed to develop a better understanding of the role played by moderators in shaping the outcomes of deliberative processes.

settings. That is, moderator strategies intended to accomplish educative goals can undermine important principles of the process. This suggests another reason to adjust deliberation's better citizen claims. In the next and final section of this chapter, I will elaborate the sort of adjustments that I envision.

6.4 FUTURE DIRECTIONS: EMPIRICAL, NORMATIVE, AND PRACTICAL

While I have argued above that there are good reasons based on the findings in the mediation context to generalize to the broad range of deliberative venues, there is of course also good reason to test these conclusions in other deliberative contexts. Beyond the substantive findings, a goal of this study has also been to contribute to the analytical and methodological approach of scholars who wish to investigate deliberation's educative effects further. First, I hope to have made the case that an investigation of deliberation's educative effects must begin from a typology of deliberative venues that takes these goals as its starting point. My own typology, based on the three categories of collective decisions, scope, and intensity, has gone some distance to sorting deliberative venues for this purpose and provides insight about additional venues that are ripe for study. For example, deliberative venues with high intensity of a different kind from mediation warrant further examination. Though the mediation context is categorized as high intensity due to the small number of participants, a mediation session lasts for a few hours at most and the process is usually limited to one or two sessions. Studying deliberative venues with high intensity due to longer duration and recurrence would further our understanding of deliberation's educative potential. This might also allow for the study of deliberative venues that are relatively intense, but include more participants than is typical in the mediation context. This would help to clarify the relevance of group size to the educative potential of deliberative processes.

Second, I hope to have provided a convincing argument that the analytical categories of efficacy, interests, and relationships are faithful to the better citizen claims advanced by theorists. They therefore offer more promising ways to operationalize those claims for the purposes of empirical study than previous efforts and will hopefully be of wider use. Notwithstanding the need to contextualize educative expectations, as I have done through practitioner interviews at my field sites, these broad categories should apply generally to deliberative contexts of all types. Third and finally, I hope to have shown the value of a qualitative approach to the study of deliberation generally and to its educative effects specifically. Future qualitative research of deliberation can complement existing experimental and quantitative approaches by providing rich data about the experience of participants before, during, and after the deliberation.

While awaiting the results of future research, it appears warranted to take up a measured and skeptical stance towards deliberation's better citizen claims. I argue that this should motivate two major adjustments to the normative and practical parts of the deliberative democracy project. First, it calls for a rebalancing of normative justifications to deemphasize better citizen claims and place the primary burden on better decision claims. Second, it requires that good citizen ideals be reconceptualised so as to make those better citizens claims that remain more consistent with empirical reality.

The first adjustment, to downplay better citizen claims in favor of better decision claims, is prompted by the limited evidence of deliberation's educative effects I have found. It has implications for both the normative and practical sides of the deliberative democracy project. My findings suggest that, within the domain of normative theorists, arguments for deliberative democracy should not hinge a great deal on its educative promise. Overplaying these claims makes the deliberative project unnecessarily vulnerable to charges of utopianism.

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Much of the time charges of utopianism against theories of deliberative democracy fail to understand the normative aims of the project. They do not see it for what it is, an effort to articulate a regulative ideal for collective decision making, regardless of and indeed because of the fact that “real life” collective decision making does not proceed in this way.

Understanding this makes clear that the simple observation that real life deliberation does not meet regulative ideals does not undermine the project’s normative power (Thompson 2008; Mutz 2008). Yet unlike the moral arguments about legitimacy that are mobilized by deliberative theorists, better citizen claims rely on empirical assumptions, and these are assumptions that I have shown there are good reason to question. Therefore, when normative theorists advance better citizen claims, they make themselves unnecessarily open to charges of naiveté and in so doing undermine the normative strength of the deliberative project. It is therefore not possible for standard better citizen claims to perform the normative work for the theory of deliberative democracy. Those normative arguments should instead be driven by legitimacy claims.

On the practical side, determining the implications that follow from these normative arguments is not typically the main concern of political theorists. It is instead the domain of organizers, policymakers, and democratic reformers, seeking to increase the use of participatory deliberative processes into real world collective decision making domains. But on what grounds do they justify their work? Certainly the practical implications that follow from accepting deliberation as a regulative ideal are not obvious. Given that we know the myriad ways that real world conditions do not conform to these ideals, it certainly does not follow that more deliberation is always better (Fung 2005; Estlund 2007, 19). In other words, practitioners need more than moral arguments about ideals to justify the reforms they seek. These efforts need more practical justifications because they are occurring in the “real

world”, and therefore require tangible real world evidence that they are better in some empirical sense from the alternatives.¹⁵⁶ One avenue for doing this is to champion deliberation’s better citizen effects. Another is to herald its better decision effects. These two avenues are certainly not mutually exclusive. In fact, I show in Chapter 1 that deliberative practitioners have often mobilized both with equal force. But the results of my research suggest that it will be more fruitful to concentrate on the latter set of claims.

The call to increase citizen deliberation would be more persuasive if it can be shown to produce or contribute to better decisions when compared to other processes. In addition, citizen deliberation may be argued for on procedural grounds, through a demonstration that when properly structured and organized it can offer, in reality, a collective decision making process that is more fair than the alternatives. Clearly, this requires further analytical elaboration to clarify what makes procedures more fair and decisions better and how to measure this against the relevant alternatives. Here, I have in mind a practical application of something along the lines of David Estlund’s philosophical framework of epistemic proceduralism, which aims to justify democracy through a combined appeal to its procedural fairness and modest epistemic value (Estlund 2007).

Estlund’s work is intentionally carried out at a very abstract level. His aim is to provide a moral argument justifying democratic authority and legitimacy and not at all with an empirical justification for reforms within an already established democratic system. Nevertheless, I think his arguments provide a useful guide for thinking about more practical aims and it is up to scholars interested in these practical questions to develop this further. Along these lines, I am suggesting that deliberative practitioners should focus more of their attention on demonstrating when and how citizen deliberation can provide a better process

¹⁵⁶ For an excellent proposal about how to integrate normative theories, practical reforms, and empirical realities concerning democracy see Fung’s explanation of “pragmatic equilibrium” (Fung 2007a).

and generate better decisions than relevant alternatives. Though gathering the empirical evidence for these claims will certainly present serious practical and methodological challenges of its own, I believe that focusing on this task will be more fruitful than committing rhetorical and real resources to promoting and substantiating deliberation's educative potential.

The second adjustment, to reconsider good citizen ideals, is prompted by the nature and quality of the educative effects that I do find. Though I have just argued for reducing the normative weight placed on deliberation's better citizen effects, there is also evidence to suggest they should not be entirely abandoned. Reconceptualizing "good citizens" in response to the results of this study provides a way for those better citizen claims that do continue to be advanced to be rendered more consistent with empirical realities.

Standard better citizen claims draw on particular conceptions of what it means to say that a democratic citizen is better than they used to be, better than others, or simply good. In its broadest terms, this study has raised questions about those conceptions by highlighting the alternate modes of democratic citizenship described by mediation participants. Rather than seeing their accounts merely as a failure to measure up to standard ideals, I have suggested that they compel us to rethink existing conceptions of good citizenship. The idea of a good citizen is certainly multifaceted, and I have attempted to capture some of what is meant by this with the three categories of educative effects. Community mediation has shed the most light on the category of relationships between "good" citizens, and I therefore confine my discussion here to what democratic theory has had to say about ideal democratic social relations. I argue that the prominence and nature of avoidance in the narratives of mediation participants points to a competing mode of citizenship that, under certain circumstances, should be understood as one way of being a "good citizen".

As I have already noted, the relationship ideals of democratic theorists advocating participatory deliberative approaches are modeled after the ideal of friendship. In my earlier presentations of this in Chapter 2, I drew on the work of Benjamin Barber who seeks “a politics that works not only to citizens’ mutual advantage, but also to the advantage of their mutuality” (Barber 2004, 118). I do not mean to suggest that democratic theorists like Barber have set their sights on a political community that is sustained by civic bonds that are identical to intimate friendships. Barber himself locates the ideal in the middle ground between friends and strangers, suggesting it should be described by the metaphor of neighbors.

A neighbor is a stranger transformed by empathy and shared interest into a friend- an *artificial* friend, however, whose kinship is a contrivance of politics rather than natural or personal and private. This distinction is crucial in the civic process, for the attachments we feel toward natural kith and kin can be constricting and parochializing; they can exclude and subvert rather than nourish citizenship. Empathy, however, as an artificial product of political talk, arouses feelings that attach precisely to “strangers,” to those who do not belong to our private families or clubs or churches. ... Politics is the art of engaging strangers in talk and of stimulating in them an artificial kinship made in equal parts of empathy, common cause, and enlightened self-interest.

(Barber 2004, 189)

Though Barber calls the kinship between citizen-neighbors artificial, he wants it to simulate intimate forms as much as possible without replicating their parochializing effects. Though more limited than intimate kinship, it is nevertheless sustained by civic bonds of affiliation and affection that are grounded in empathy. In other words, on the long road between strangers and friends, Barber wants citizen-neighbors to be a good part of the way home.

Danielle Allen has advocated for a similar dynamic in the everyday interactions between citizens (Allen 2004). She argues that we can generate the resources needed to survive the psychological challenge of loss and sacrifice that characterize democratic politics by acting as if strangers are our friends- even though we do not feel the same emotional

attachment towards them. Allen draws more explicitly than Barber on Aristotle's conception of political friendship and she places more emphasis on feelings of trust and norms of reciprocity than on empathy or affection. Yet her account of ideal democratic social relations is similar to the extent that it pushes citizens to model their interactions on friendship with the expectation that this will, in time, produce genuine feelings of attachment. Though this will be a distinct form of civic rather than intimate attachment, it will still be based on authentic feelings.

The ideal of political friendship seems to rely on a belief in the perfectibility of human nature, the idea that despite the constraints of a plural mass democratic society, citizens can still work towards relations that are based in genuine positive affect. Barber seeks a politics that "ordains concourse with strangers" (Barber 2004,189) and Allen urges us to "talk to strangers" in ways that will transform us into neighborly strangers (Allen 2004).¹⁵⁷ Though I do not wish to overdraw the neighbor metaphor employed by Barber, my study of the way real neighbors actually relate to each other in a plural mass democracy prompts very different conceptions of civic relations. It is worth remembering that the term "neighbor" has two quite distinct definitions. According to Webster's Revised Unabridged Dictionary, the term can mean "one who is near in sympathy or confidence" as Barber and Allen hope, but it can also refer simply to one "who lives near another" (Webster and Porter 1913). My observations point towards the second definition and suggest that we should abandon efforts towards a political community of neighborly (i.e., friendly) strangers in favor of one

¹⁵⁷ Seyla Benhabib's work on democratic iterations and just political membership provides another similar formation. Though she does not draw explicitly on notions of "political friendship", Benhabib is concerned with civic relations between strangers- and especially the implications they have for transnational migrants. Like Barber and Allen she too holds out hopes for the way deliberative processes (i.e. democratic iterations) can generate just political communities and civic relations grounded in authentic feeling (2004; 2006; 2007; 2008).

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that is made up of courteous strangers and, when necessary, estranged neighbors (i.e., physically proximate).

As I noted previously, observing that the real world fails to meet the ideals of political theorists does not necessarily undermine their normative power. To challenge conceptions of political friendship at a normative level, one must offer an alternate conception of human nature to the one grounded in perfectibility described above. Scholars of political hypocrisy have done exactly that by arguing for a conception of human nature that renders the ideal of political friendship impractical (Bybee 2010; Grant 1999; Runciman 2010; Shklar 1984). At the outset, they assume that differences are persistent and will remain at some level irreconcilable. Further, their conception of human nature acknowledges a moral self, one who wants to be good. At the same time it accepts that our passions will often keep us from living up to these principles. This mix of principle and passion will, nevertheless, drive our efforts to *appear as though* we are good (Bybee 2010: 53-55). It is from this conception of human nature that one comes to see courtesy as an ideal mode of interaction in public life. Codes of common courtesy prescribe behaviors that help to sustain social peace but do not require genuine mutual affection. Because courtesy is habitual, pleasurable, and useful, it is a social practice that thrives despite our aversion to hypocrisy and our inherent limitations (66). Though courtesy is not perfect- it can reinforce unjust hierarchy by dispensing its benefits unequally and resisting the redefinition of archaic social norms, it is a form of interaction with normative merits (73).

Habits of common courtesy allow those who may wish that they were strangers to pretend that they are friends, albeit “false friends” (Bybee 2010: 37).¹⁵⁸ Though both invoke

¹⁵⁸ Bybee credits Grant for the term “false friends.” She uses this term to elucidate her interpretation of Machiavelli’s meaning for the Italian *amici* in sections of *The Prince* where he discusses the need for hypocrisy in political alliances (1999: 20-21).

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friendship in some form, courtesy is distinct from political friendship, owing to its reliance on pretense and its grounding in a different conception of human nature.¹⁵⁹ Embracing courtesy as an ideal provides a practical alternative to the impossible ideal of civic relationships grounded in authentic feelings. Relationships with intimates grounded in authentic feeling are of course possible, and the boundary between true friends and false friends will not always be clear. Courteous behavior is therefore not always fake and may be motivated by genuine feelings of affection. But courtesy functions effectively as a social lubricant because its underlying motivations are ambiguous. Seeking to remove this ambiguity and ground every relationship in authentic feeling- even in a weaker civic form, is not consistent with basic human limitations and the circumstances of plural mass democracy.

Courtesy therefore operates on the understanding that, though morally flawed, we are capable of creating a political community of courteous strangers. Indeed, the narratives of mediation participants recounted in the previous chapters are most compatible with this sort of community. Some of what they described involves what I have called courteous avoidance, where participants minimize their interactions as much as possible- and when required to interact, they do so in ways that are polite though they may not be sincere. Their accounts lend credence to my argument that a political community of courteous strangers might be thought of as one that is comprised of good citizens.

But what about when citizens wish to remain and act like strangers or even pretend to be strangers when they are not? Some mediation cases I described in Chapter 5 fall into this category, and participant narratives recount relationships that fall outside the bounds of courteous avoidance. In these instances, citizens have instead become estranged neighbors in the sense that while they remain in physical proximity to varying degrees, they eschew

¹⁵⁹ Recall the distinction I drew in Chapter 5 which acknowledge some use the term courtesy and civility in a way that does, like political friendship, invoke human perfectibility. I do not use courtesy in this way.

even courteous avoidance in exchange for a more blatant form of avoidance. They turn the other way when they see each other, they refuse to communicate except in writing, or they build larger and more opaque fences to delineate the boundaries they do not want crossed. And yet these departures from courteous avoidance do not prompt a break down in social peace. In these particular cases, they seem to be the only thing that can enable it.

Furthermore, most estranged neighbors are relieved to have these new arrangements replace the manifest conflict pattern that preceded them. Their relief is unapologetic in its embrace of this blatant avoidance, suggesting that they are unmoved by the mechanisms that typically motivate polite behavior. Their relief is not complete however, as they continue to feel apprehensive about their proximity to someone they consider unpredictable and threatening. This sense of threat is central to understanding the need for blatant avoidance in the minds of estranged neighbors. I argue that it is in cases where a sense of threat and danger intensifies to a certain degree that the potential for courteous avoidance is replaced by the need for its more blatant form.

How should the experience of estranged neighbors inform our thinking about ideal democratic social relations in a mass plural society? One response is that it should not. Many will find the outcome of these cases disappointing on first blush. My work is not alone in uncovering empirical evidence that citizens avoid politics and disdain conflict (Eliasoph 1998), and some have even tried to reconfigure our democratic ideals based on these findings (Hibbing and Theiss-Morse 2002). But a more standard response to these observations is to lament the distance we still find ourselves from our ideals and to redouble our efforts to approximate them. My approach differs in at least two ways from these. First, it moves beyond an analysis of everyday political discussion to focus on broader concerns

about the quality of everyday citizen interactions in general.¹⁶⁰ Second, it suggests the need to theorize more deeply about the normative merits of alternatives like blatant avoidance. I argue for this approach because accepting the conception of human nature outlined by scholars of hypocrisy and courtesy rules out the possibility that we can escape the parochializing harm of seeking civic relations grounded in authentic feeling. On the other hand, the limitations of a more practical ideal grounded in pretense and courtesy cannot be denied either. Though courtesy offers great potential for social peace, its reliance on hierarchy makes it suspicious from the vantage point of justice. If we aspire to democratic social relations that reach towards both peace and justice, then we must develop further our understanding of the limits of courtesy within the bounds of its corresponding conception of human nature.

This requires thinking about the merits of discourteous, uncivil, and rude behavior in order to bring nuance to the argument for courtesy as ideal. As others have noted, we may consider rude behavior justified when it is intended to shake up existing hierarchies and remedy injustices that are reinforced by the courtesy norms of the day (Bybee 2010: 72). But can blatant avoidance be cast in this light? Its private and peaceful qualities might make us doubt that these examples belong in a category with the sit-ins performed by civil rights protesters and the “die-ins” staged by gay rights activists (67). Though the performance of blatant avoidance is not public or collective like organized activism, it shares qualities with complimentary and more widely practiced forms of “everyday activism” (Mansbridge and Flaster 2007). Mansbridge and Flaster define “an ‘everyday activist’ in a social movement as anyone who both acts in her own life to redress a perceived injustice and take this action in the context of, and in the same broad direction as, that social movement” (629). Their work

¹⁶⁰ See also (van Leeuwen 2010; Rosenblum 1999).

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focuses on the everyday use of language drawn from a social movement, specifically the case of “male chauvinist”, but they insist that such instances “are only one small, visible portion of a much larger, less visible set” (629).

The actions of blatant avoiders are certainly intended to redress a perceived individual injustice- after all, what justice claim is more fundamental than a concern for one’s physical and psychic safety? Though it is not explicitly or systematically linked to an organized social movement, the sense of injustice in these cases is often grounded in a group identity. Gender in particular is salient in the narratives I heard.¹⁶¹ This too is consistent with

¹⁶¹ See comments from Sylvia, Rita, Catherine, Beverly, Lorna:

“And he picked on me because he knows I live alone here and he knows there’s not much I can do... if there is a man living [here] he would never do it. I can tell you that. I know definitely that” (Sylvia).

“So it was really uh, unnerving, for a single woman, to feel that watched” (Rita).

“He seems to be a misogynist, like he seems to hate women. Um, but you know having said that, he was friendly with the lady on my side ... [but] doesn’t really speak to anyone else, women or not in our street, but they were friendly. So I can’t say he’s a misogynist.... But it’s certainly appeared that he disliked women”(Catherine).

“But I say he’s not my cup of tea, he’s too ugly. Any way it appears, when I move here first he did not knock on the wall, the floor as much. But after he found out in his mind that I don’t want him, then things get sour. And this is really what happened. So he was looking in my direction upon what he told her. But because he see, I’m not looking in his direction, he keep tormenting me, knocking, knocking on the door” (Beverly).

“He has issues with women. I don’t know what his problem is really because at one point he cornered me on the elevator and he was yelling, it was, not that I was afraid but by the time I got off my body was shaking from the energy, it was yelling. ... talking to a lot of women who had had conflict with him and they said, and they just encouraged me not to give up something that I really liked a lot and to fight for it” (Lorna).

Characterizing threat in gendered terms is not limited to heterosexual women, as these comments from Anne illustrate:

“I knew that there were a lot of kind of undertones of things like domestic violence... which I later found a domestic violence, it’s called a power and control wheel, and when I read that, and kind of enumerated the various things involved in like domestic violence. I was like that is what happened to me, and it was suddenly very, very clear. So like, at the time I knew that there was a lot of kind of power stuff going on ... I was kind of always forced to be doing the femme things, even though I don’t identify as femme and like ... so there was a lot of kind of gendering going on and like, and like this sort of thing is like very obviously kind of for someone who’s inside of it or inside that world like, it’s very much gender related violence, but for someone who and I, I’m pretty sure both of our

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“everyday activism”. It typically operates based on “only a minimal oppositional consciousness”, which is the “loose and messy continuum” of principles, ideas, and feelings that include claiming and affirming a once subordinate identity, as well as identifying and demanding redress for injustices done to this group (2007, 632; see also Mansbridge and Morris 2001).

Blatant avoiders are willing to disrupt norms of common courtesy enough to communicate their sense of injustice to their conflict partners and other observers (mediators, friends, neighbors). They refuse to participate in even the pretense that past wrongs are forgiven or to risk opening themselves up to fall victim to such wrongs again by practicing courteous avoidance. In this sense they are everyday activists. Yet their reliance on avoidance suggests that they are not, or no longer, willing to risk social peace in order to directly confront those they believe to be perpetrating everyday injustice. Furthermore, they justify their blatant avoidance on individual grounds that are only weakly, if at all, linked to the aims of a group oriented social movement. In this sense, their challenge to existing social hierarchies is quite limited and does little to reconfigure courtesy’s potential to offer social relations that are at once peaceful *and* just. This places blatant avoidance somewhere between the open confrontation of everyday activism and the artificial friendliness of common courtesy.

This analysis suggests that, from the standpoint of ideal democratic social relations, there are grounds for defending blatant avoidance to the extent that it makes a modest

mediators were like very straight, like it probably didn’t look that weird, it was like ok, here’s the girly girl and here’s a less girly girl” (Anne).

Jonathon as well, who did not wish to be recorded, described feelings of threat in the presence of Catherine’s family members who he believed intentionally made repeated homophobic comments within his earshot. He described the conflict as sexist in nature, said that it involved hate, and that he was not being treated as an equal. He further noted the irony of the fact that at the same time that Catherine felt threatened by him as a single woman living alone (see above), he felt threatened by she and her family as a gay man.

contribution to advancing justice while, at the same time, preserving social peace. It also makes clear the risks of uncritically embracing this mode of social interaction. First, because it is motivated by a sense of injustice that is only weakly tethered to broader collective justice claims, its capacity to deliver meaningful redress is seriously limited. A response to injustice rooted in avoidance may reinforce apathy, keep citizens demobilized, and presents a serious obstacle to the overt politicization necessary to bring about social change.¹⁶² Second, as I have presented it here, blatant avoidance is motivated by perceptions of danger and threat. While a single woman's refusal to "be nice" to a male neighbor by whom she feels threatened and bullied may be convincingly presented as contributing to the cause of equality between the sexes, not all feelings of threat are equally justified. Allegations of threat can be intentionally manipulated or inaccurately perceived by members of oppressed groups.¹⁶³ Perhaps more importantly, threat perceptions are heavily influenced by racial prejudice and other forms of bias.¹⁶⁴ Distinguishing instances of blatant avoidance that challenge injustice from those instances that reinforce it will not be a simple task. Though not possible here, further exploration of these issues will be the focus of future work. I will conclude here by simply asserting that the modes of courteous avoidance, blatant avoidance, and everyday activism together present a promising set of categories upon which to base a practical ideal of everyday democratic social relations that offer the promise of both peace and justice.

¹⁶² Indeed, these risks have been emphasized by several critics of mediation (Nader 1993; Abel 1982; Hofrichter 1982).

¹⁶³ Victor suggests this is what is going on in his conflict with Sylvia:

"She always take advantage of being single, and she ah, she's alone. She's the only person in the house, only lady so I'm ah, I'm ah stalking her, ...

H: do you think she really believed that those things were happening or she made them up?

V: she made them up just to upset me because I'm removing everything the retaining wall, and her retaining wall"

¹⁶⁴ For example consider this comment from Martha about the immigrant run organization operating next door to her home:

"There are cultural differences, their outlook on and their idea of what they could do in Canada and what they couldn't do... they don't see communities the way we see them. There is quite a difference, especially when you have a gang and they are a gang ... they're attracting the same type of people that will harass you" (Martha).

Recasting our conceptions of “good citizens” to acknowledge the value of courteous avoidance, blatant avoidance, and everyday activism sheds new light on the educative potential of deliberation. In Chapter 5, I presented evidence that the mediation process plays a role in generating relationships of courteous and blatant avoidance between citizens. Embracing this relational outcome as an ideal points to a new way of conceptualizing the educative potential of deliberation. My research suggests that although deliberation does not often “educate” citizens in a transformative sense, by increasing efficacy, clarifying interests or establishing friendliness, it can enable the establishment of avoidant relationships that have normative merit. I therefore conclude, based on these and the other findings of this study, that deliberation does not often make “better citizens”, and that when it does, its effects challenge existing ideals. These conclusions impel deliberative theorists and practitioners to reduce the normative weight they place on better citizen claims *and* to adjust their remaining better citizen expectations to be more consistent with human limitations.

APPENDIX I

Below I provide additional information about interview participants in step one (practitioners), interview participants in step two (mediation participants), their mediation cases, and those who used the mediation services at CDR1 or CDR2 during July 1, 2006-July 1, 2007 that were not interviewed. Table 0.1 includes a complete list of practitioner interview participants by CDR, pseudonym¹⁶⁵, role, and interview type.

Table 0.1: Practitioner Interview Participants

CDR1		
Pseudonym	Role	Interview Type
Alyssa	Volunteer	Individual
Andrea	Volunteer	Individual
Ariana	Volunteer	Focus Group 1
Arnold	Volunteer	Focus Group 1
Caitlin	Volunteer	Focus Group 1
Carlos	Volunteer	Focus Group 1
Cenk	Volunteer	Focus Group 2
Cynthia	Volunteer	Focus Group 1
Denise	Volunteer	Focus Group 2
Frank	Volunteer	Focus Group 2
Gary	Staff	Individual
Gloria	Volunteer	Individual
Jill	Volunteer	Focus Group 1
Joshua	Volunteer	Focus Group 1
Karen	Staff	Individual
Leila	Volunteer	Focus Group 1
Lorena	Volunteer	Focus Group 1
Maureen	Volunteer	Individual
Maya	Volunteer	Focus Group 2
Roslynne	Volunteer	Individual
Sophie	Volunteer	Focus Group 1
Susanna	Volunteer	Focus Group 1
Vivian	Volunteer	Focus Group 1

Table 0.1 continues on next page.

¹⁶⁵ Participants' names have been changed to protect their anonymity. Where possible, pseudonyms have been chosen to preserve the gender and ethnic identities of participants within the sample.

Table 0.1 continued.

CDR2		
Pseudonym	Role	Interview Type
Ajay	Volunteer	Focus Group 1
Anita	Volunteer	Focus Group 1
Carly	Volunteer	Focus Group 1
Cheryl	Volunteer	Focus Group 2
Courtney	Volunteer	Focus Group 2
Jessica	Volunteer	Focus Group 1
Jim	Volunteer	Individual
Kate	Staff	Individual
Kevin	Volunteer	Focus Group 1
Lindsay	Volunteer	Individual
Melissa	Volunteer	Focus Group 1
Meredith	Volunteer	Focus Group 1
Nikola	Volunteer	Focus Group 2
Paul	Staff	Individual
Richard	Volunteer	Focus Group 1
Vivek	Volunteer	Individual

Table 0.2 includes a complete list of mediation participant interviewees by pseudonym. They are grouped by mediation case along with information on the total number of participants in the relevant mediation case, the relational context of the mediation, and a brief description of the case. Those cases in the “intimates” category include family and romantic relationships,¹⁶⁶ while those in the “neighbors” category include conflict partners that associate as a result of residential proximity.¹⁶⁷

¹⁶⁶ One exception to this is the case of Jaime and Anne who were close friends that lived together. Though they did not characterize their relationship in romantic terms, their circumstances seem to fit best in the intimate category since their relationship was more than a neighborly one even though the relationship did involve residential proximity.

¹⁶⁷ One exception to this is Loretta, who was in conflict with a former business partner. Even so, Loretta’s circumstances best approximate the “neighbor” category.

Table 0.2: Descriptions of Mediation Cases

CDR 1		
Interview Participants	Total Participants	Brief Description of Case
Martha Mr. Kim	2	(Neighbor) Long time resident elderly resident and pastor of the congregation using the church next door discuss use of the grounds and future interactions.
Dalia	2	(Intimate) Mother and adult daughter discuss the history of their relationship, their living arrangements, and the guardianship of daughter's 12 year old son.
Loretta	2	(Neighbor) ¹⁶⁸ Former business partners discuss disagreement about an informal agreement about payment for work.
Max Lynn	4	(Neighbor) Long time married couple ¹⁶⁹ residents and newly arrived married couple discuss the placement of an air conditioner in the space between the houses and its subsequent effects on one party's health and well being.
Sara	2	(Neighbor) Two mothers discuss an altercation they had after a fight broke out between their school aged children.
Sylvia Victor	2	(Neighbor) Long time and newer resident discuss fence, retaining wall, and trees located at the property line between the two homes as well as history of interactions over these matters.
Evelyn¹⁷⁰ Julie Alice	6	(Intimate) Six adult siblings and their two aging parents discuss arrangements for sharing use of the family cottage.
Michelle	2	(Intimate) Husband and wife in the process of separating discuss living arrangements, care, and support of their son as well as the past and future of their relationship.
Beth	2	(Intimate) Adult siblings discuss the inheritance of a sentimental item in their deceased mother's estate.
Jeffrey Leslie	4	(Neighbor) Married couple and adult sons of their mentally ill neighbor discuss problems coping with her mental illness.
Tracy*** Alec	7	(Community) Circle process convened between a troubled youth, his mother, his teacher, his outreach workers, his pastor and others to address an act of vandalism.

***Excluded from the analysis.¹⁷¹

Table 2.4 continues on next page.

¹⁶⁸ Loretta and her conflict partner were former business partner. Although their relationship did not involve residential proximity, Loretta's circumstances best approximate the "neighbor" category.

¹⁶⁹ I conducted my interview with Max and Lynn (a married couple) partially together. I also interviewed each of them individually. Jeffrey and Leslie (also a married couple) would not agree to be interviewed separately, so I conducted their interview together. I coded each of their narratives within the joint interview separately.

¹⁷⁰ In this case, Evelyn participated in mediation with the help of teleconferencing technology because she lives at a significant distance from Toronto which precluded her participation in a face-to-face mediation session.

Table 0.2 continued.

CDR 2		
Interview Participants	Total Participants	Brief Description of Case
Jaime Anne	2	(Intimate) ¹⁷² Former roommates and close friends discuss the logistics related to moving out, dividing belongings and paying final bills.
Catherine ¹⁷³ Jonathon	2	(Neighbor) Neighbors discuss mutual driveway as well as history of interactions over this matter.
Norm Lauren Christine	6	(Intimate) Adult siblings discuss the current physical and mental health of their mother and her care as well as their relationships and communication in general.
Alfred Beverly	2	(Neighbor) Two elderly residents of a social housing unit for seniors discuss noise and their history of interactions over this matter.
Lisa Alan	2	(Intimate) Ex spouses and co-parents discuss financial arrangements for their daughter's higher education and the history of interactions over this and other matters.
Lorna	3	(Neighbor) Residents in a housing cooperative discuss noise and the history of their interactions over this matter.
Jeremy	3	(Neighbor) Resident and business owner discuss noise and safety concerns relating to the operation of the business near a residential area.
*Debbie Joan	2	(Neighbor) Two elderly residents of a social housing unit for seniors discuss election of tenant representative and history of interactions relating to this matter.
*Rita Nigel	2	(Neighbor) Neighbors discuss mutual driveway, noise and history of interactions over these matters.

**Indicates that observation of case development meetings and mediation sessions took place. Only the participant with a * participated in a post-process interview. These mediations took place between July 2007 and July 2008.*

¹⁷¹ Tracy and Alec's case was excluded from the analysis because it was convened as a restorative justice circle process rather than as a "normal" community mediation process. The extent of its uniqueness was not clear until after interviews were completed. Out of all the cases at CDR1 and CDR2 from July 1, 2006-July 1, 2007, this one is unique in its departure from the standard mediation process and therefore the only case excluded.

¹⁷² Jaime and Anne were close friends that lived together. Though they did not characterize their relationship in romantic or familial terms, their circumstances seem to fit best in the intimate category.

¹⁷³ This case is atypical because Catherine and Jonathon actually never met face-to-face in mediation. The CDR staff and volunteers involved in the case reluctantly agreed to Catherine's request to convene a "shuttle mediation" where participants were located in different rooms and met one at a time with the mediators who conveyed messages back and forth. Catherine refused to participate in face-to-face mediation because she felt physically and psychologically threatened by a direct encounter with Jonathon- her next door neighbor at the time. Though a significant departure from the typical mediation process employed at the Toronto CDRs (see Section 2.7), the case includes enough basic features of the typical mediation to warrant inclusion in the analysis.

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Of course, if those mediation participants listed in Table 0.2, who agreed to be interviewed, are systematically different from those who declined interviews or were unreachable, this would have implications for the analysis. To address these concerns, I compare the cases in my sample to those who did not participate according to available information in the CDR databases about cases (mediation outcome) and participants (sex).

Table 0.3: Mediation Participant Interviewees and Non-interviewees¹⁷⁴

CDR1 Interview Participants by Mediation Outcome			
	Agreement	No Agreement	Total
Interview	15 (100%)	0 (0%)	15 (100%)
No Interview	20 (91%)	2 (9%)	22 (100%)
Total	35 (95%)	2 (5%)	37 (100%)
Missing: 8 [3 Interview, 5 No Interview]			

CDR2 Interview Participants by Mediation Outcome			
	Agreement	No Agreement	Total
Interview	8 (61.5%)	5 (38.5%)	13 (100%)
No Interview	12 (86%)	2 (14%)	14 (100%)
Total	20 (74%)	7 (26%)	27 (100%)

CDR1and CDR2 Combined Interview Participants by Mediation Outcome			
	Agreement	No Agreement	Total
Interview	23 (82%)	5 (18%)	28 (100%)
No Interview	32 (89%)	4 (11%)	36 (100%)
Total	55 (86%)	9 (14%)	64 (100%)
Missing: 8 [3 Interview, 5 No Interview]			

CDR1 Interview Participants by Sex			
	Male	Female	Total
Interview	5 (28%)	13 (72%)	18 (100%)
No Interview	12 (44%)	15 (56%)	27 (100%)
Total	17 (38%)	28 (62%)	45 (100%)

CDR2 Interview Participants by Sex			
	Male	Female	Total
Interview	5 (38%)	8 (62%)	13 (100%)
No Interview	8 (62%)	6 (48%)	14 (100%)
Total	13 (48%)	14 (52%)	27 (100%)

CDR1and CDR2 Combined Interview Participants by Sex			
	Male	Female	Total
Interview	10 (32%)	21 (68%)	31 (100%)
No Interview	20 (49%)	21 (51%)	41 (100%)
Total	30 (42%)	42 (58%)	72 (100%)

¹⁷⁴ Totals in Table 0.3 reflect the universe of mediation participants at both CDRs within a one year period (whose mediation case concluded between July 1 2006-July 1 2007). Following observation of two mediation cases in July 2007 and July 2008, I conducted two additional post-process interviews with Rita and Debbie. Because their cases are drawn from outside the original sample boundaries, they are not included in Table 2.5.

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As Table 0.3 shows, based on these factors those who participated in interviews do not differ dramatically from those who did not (though it appears that women were more likely to participate in an interview than men). Furthermore, as I discuss in Chapters 3, 4, and 5, these interviews suggest that the mediation process has minimal educative effects (at least when educative effects are understood according to practitioners' expectations). This suggests that the main sample bias hazard, that those who participate in interviews are also those more likely to report lasting effects, has not drastically skewed the results.

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