1 The Public Inquiry: An Idiosyncratic Institution

Public inquiries are highly idiosyncratic organisations that exist outside the rhythm of everyday politics and policymaking. Their independence from government means that they need not operate in a typical bureaucratic manner when going about their work. The politics of organisational survival does not concern them as they are well funded and purposefully created to have a short shelf life. They exist primarily to communicate policy advice but not to action it, which means they are free from the burden of implementation and service delivery. And they tend to be staffed by professionals who have been successful in their 'day jobs' and therefore expect to be given autonomy and agency to make decisions on their own terms. These characteristics all mean that inquiries have the capacity to do things differently. As a consequence, we see a great of deal of variance in inquiries around the world, both in their form and functioning, and in the menu of political, social and policy-orientated outputs that they deliver.

Scholars interested in public inquiries reflect the variance that can be found in their unit of analysis, which means that the literature on these institutions is both voluminous and inter-disciplinary. Unsurprisingly, researchers tend to bring their discipline's characteristics into their studies. Sociologists, for example, 'abstract up' to reflect on the role that inquiries play in relation to larger structural forces (Ashforth 1990) or they use textual analyses to 'dig down' into inquiry texts in order to see those larger structures staring back at them (Brown 2000). Law scholars also focus on what we might expect from their discipline, by either examining procedural processes at the organisational level from a practitioner perspective (Beer 2011; Mitchell et al. 2020) or exploring larger notions of justice and representation in a more scholarly manner (Schwartz 1997; Salter 2007). Some political scientists have delivered rather pessimistic evaluations of the public inquiry that suggest they are a manifestation of executive (and therefore elite) power and largely ineffectual as a consequence (Clokie and Robinson 1937; Bulmer 1980; Sulitzeanu-Kenan 2010). However, political science and policy studies have also produced the largest and most consistent body of inquiry literature. In this field, we can find a series of contemporary works from policy facing political scientists who have developed frameworks, taxonomies and detailed analyses to illustrate the policy relevance and important contributions of public inquiries (see, e.g., Inwood and Johns 2014; Marier 2017; Stark 2019; Stanton 2022; Prasser 2023). Some have also extended the analysis of inquiries through the systematic generation of data about their role within specific political cultures (e.g., Christensen and Holst 2017; Hesstvedt and Christiansen 2022; Hesstvedt and Christensen 2023).

The fact that these political scientists have made consistent contributions to the study of inquiries over time, and developed frameworks for studying and classifying them, means that the scholarship in this area has become more coherent over the past decade. However, what distinguishes inquiry literature from other branches of political science is the massive constellation of one-off studies that have made claims about these institutions. These studies mean that, like inquiries themselves, the literature is very idiosyncratic. Scholars from a large variety of disciplines have tended to stumble across an inquiry that has piqued their interest, usually because the inquiry has conducted work on their specific research area. These particular inquiries are analysed, their work and importance are speculated upon and then after a single publication they are typically abandoned as a research concern. This has implications both for the quality of knowledge that we have about inquiries and for the coherence of this body of literature (see Stark 2019) because the morass of single shot studies surrounds the core body of work noted above with varying forms of commentary. This variation means that we need to be very clear about the particular focus and contribution of this Element.

To clarify our contribution, we first offer a definition of what we mean when we use the term public inquiry and then discuss the variety of functions that inquiries can perform in greater detail. When it comes to definition, we use the term public inquiry simply to denote those institutions that represent 'temporary working groups created, mandated and made independent by governments in order to fact-find, hold actors to account or develop policy lessons' (Stark and Yates 2021: 347). This is an expansive definition that allows us to discuss 'blue-ribbon' commissions of inquiry and large-scale inquiries constituted through legislation alongside less formal policy reviews and expert-driven advisory commissions such as task forces. While each sub-type has its own defining characteristics – for example, task forces tend to be set up on a smaller scale, with more explicit design mandates and fewer formal investigative powers (Inwood and Johns 2022) – they have some similarities that allow us to consider them together. Therefore, we set boundaries on what is in and out of the analysis with specific reference to five defining characteristics, which we argue represent the essence of the public inquiry. These tell us that public inquiries are: 1) independent, to varying degrees, from executive control or state influence; 2) open to public involvement in terms of the generation of evidence; 3) responsible for the delivery (but not implementation) of policy advice; 4) highly contingent in terms of form and function; and 5) temporary in terms of existence (see Stark and Yates 2021: 347–8 for a fuller discussion of each of these characteristics).

We can also think about inquiries as the producers of four categories of output. It is certainly the case that inquiries are convened to produce *political outputs*. The announcement of a public inquiry, for example, often offers the chance to release political pressure or to cool an issue down by removing it temporarily from an intense political spotlight (Herbert 1961; Elliot and McGuiness 2002; Stark et al. 2023). Alternatively, it has been said that inquiries can be steered from a distance in a way that ensures that their recommendations favour the interests of those who have convened it (Bulmer 1980; Ashforth 1990). A great deal of attention has been given to these agenda management functions in the public inquiry literature (Sulitzeanu-Kenan 2010; Marier 2017). Most of it paints a rather depressing picture of the inquiry either as an enfeebled institution that can be easily outmanoeuvred by elites who wish to ignore its recommendations or – worse still – as a marionette that can be made to dance to the tune of an executive master. Such caricatures have been criticised for underplaying the complexity of contemporary policymaking and the nature of twenty-first century politics (Stark 2020), yet their allure remains compelling to some commentators who continue to define inquiries as agenda management mechanisms (e.g., McConnell 2020: 964).

However, if we shift the lens upwards and away from the dark arts of politics, it is clear that inquiries can play a reparative role within political systems. When failings damage legitimacy, support and stability within a polity, the convening of a mechanism that has the potential to account and remedy issues becomes important (Boin et al. 2016: 115–7). These systemic political outcomes materialise because inquiries can produce *social-psychological outputs* that have profoundly symbolic effects. When inquiries allow victims to tell their stories and feel represented, when they deliver diagnoses that explain uncertainty and, above all, when they present the appearance (whether real or artificial) of action and change, inquiries produce these outputs (Renå and Christensen 2020). However, inquiry scholars debate the value of these symbolic outputs and many who write from a power-critical perspective tend to argue that they are problematic. These criticisms suggest that inquiries can produce political outputs that re-legitimate problematic status quos, award certain voices status while ignoring others, and offer up conclusions that help executives avoid radical reform (Ashforth 1990; Brown 2004; Vaughan 2006; Boudes and Laroche 2009).

Legal scholars have also given a great deal of attention to public inquiries, which reflects the outputs that they can produce in relation to *administrative justice*. In this regard, inquiries have been described as part of the 'fourth branch of government' (Donson and O'Donovan 2022: 138) because of their capacity to produce oversight and accountability in relation to political, bureaucratic and

judicial decision-making. At one end of a process, inquiries can represent 'a final accountability backstop' (Donson and O'Donovan 2022: 138) when other avenues of accountability have failed. At the start of another process, the evidence produced by inquiries can be passed to prosecutors who may wish to begin proceedings if it shows negligence, maladministration or criminality. However, beyond these specific legal outputs, law scholars have also shown how inquiries produce forms of representation and restorative justice through truth telling and hindsight reconstruction (McAlinden and Naylor 2016; Stanton 2022) and forms of public deliberation that shape policy debates (Donson and O'Donovan 2022: 142). The importance of these legal outputs, combined with the fact that many inquiries are staffed by legal personnel, has also led legal scholars to produce research which is orientated towards the practitioner (Beer 2011) ranging from the very procedural and pragmatic (Mitchell et al. 2020) to the more theoretical end of constitutional law (Ratushny 2009).

Finally, and most importantly, public inquiries produce outputs of relevance to the delivery of *public policy*. Less research exists in this area. However, policy researchers have already established that inquiries can perform 'policy learning' functions (Stark 2018) and that their institutional features can offer the impetus for policy change more broadly (Inwood and Johns 2014; Resodihardjo 2020; Mintrom et al. 2021). Quite simply, policy scholars understand that these institutions can have transformative policy effects. Indeed, Johns and Inwood (2018) note that in Canada, it is difficult to think of a policy area that has *not* been influenced by a public inquiry. However, even if an inquiry's recommendations are not substantively implemented, its work can still influence policy indirectly by shaping public debate, providing an ideational touchstone and a reference point for activists, and influencing the way policy is evaluated in a particular domain (Althaus 1994; Cunneen 2001; Stark 2018). The purpose of this Element is to contribute to this strand of inquiry scholarship so that we can better understand the variety of policy roles inquiries perform.

More specifically, we are concerned with the ways in which public inquiries can produce *policy design outputs*. We therefore view inquiries in this Element as *policy design tools,* which can equip those who must formulate policy with the means to perform a range of roles. Even more specifically, to use the parlance of policy design, we view public inquiries as procedural policy tools (Stark and Yates 2021), as they do not deliver policy directly but significantly influence the rules of the game around it (see Howlett 2000).

The decision to study inquiries as policy tools means that this Element is primarily seeking to locate and study the public inquiry within that sub-field of policy studies that relates to policy design and formulation (for a comprehensive overview, see Howlett and Mukherjee 2017). Ultimately therefore, this is an

Element about public inquiries for policy scholars. However, it is also an Element about policy design for public inquiry scholars. In relation to each community, the task remains the same: to deliver an analysis of the ways in which public inquiries can act as policy design tools. Our contribution is primarily conceptual but it is also practical. We set out concepts that connect policy design and public inquiry together (see Section 2), we draw on empirical examples, and illuminate our arguments with evidence from a range of international contexts, but our intention is to speak to the real-world challenges associated with producing outcomes through policy design and public inquiry processes. We aim to show that policy designers – by which we mean 'people working in and around government whose primary role is to craft proposals for policy directions' (Mintrom and Luetjens 2017: 176) – have much in common with inquiry members and supporting staff. In the process, we explicate four main policy design roles or functions of public inquiries: catalytic, learning, processual and legitimation (Section 3). We are also concerned with inquiry effectiveness, both in general and with respect to their policy design functions (Section 4). This means we are concerned in this Element both with *the policy design roles of public inquiries* and *the design of inquiries for policy design purposes*. Having established this, the most obvious question to turn to next is: what exactly is policy design? Addressing this question also helps us to refine our focus.

2 Theorising Inquiries as Policy Tools

2.1 The Focus on Policy Design

We can initially cut through the dizzying array of taxonomies, types and classifications that exist in the sub-field of policy design in order to say something rather simple, which is that policy design scholarship can be understood in terms of three questions. First, to simplify in the extreme: what is the thinking behind a policy's core assumptions? Here, the challenge is to understand the way in which intellectual schemas, typically reflected in ideal-type cause-and-effect claims, shape the fundamental thinking behind policy options and configurations (see Linders and Peters 1988 and Peters et al. 2018). Second, what instruments can act as means to the desired policy end? In this area, research has expended a great deal of time and energy defining the nature and effects of specific policy tools, and combinations of tools, that are built or chosen by policy designers (see Jordan and Turnpenny 2015). Finally, how is policy formulated? Addressing this question means understanding the processes and procedures through which policy advice is generated, delivered and schemes and tools selected (see Howlett 2009).

This may sound like a crude attempt to simplify a complex field with many moving parts, but what is important here is that in all three of these efforts, policy scholars try hard to produce practice-orientated knowledge. This is what distinguishes policy design research from other branches of the policy sciences in which the gap between theory and practice is much wider. One of the reasons for this narrowed gap is that policy design scholarship accepts, to different degrees depending on the author and the work, that design thinking is ultimately about effective and efficient goal attainment, which requires 'processes of more or less conscious and *rational* efforts at design' (Howlett 2011: 22, emphasis added). Introducing the r word into any policy writing in the twenty-first century can be a fraught endeavour but there is no escaping the fact that policy design scholarship commits to what Stone (2012) once defined as the 'rationality project'. To be clear, no one knows the irrationality, uncertainty and sheer contingency that characterise the social world more than the policy designer and the policy design scholar. Both are doomed to analyse repeated failures, precisely because of the many and varied ways that policy and its objects are 'irrational'. As Peters et al. (2018: 32) note, policy design is purposive and instrumental but it must also understand feasibility and acceptance (and their opposites). What is crucial to understand, however, is that despite being well recognised and well understood (see, e.g., Howlett 2019, 2020), these factors have not stopped a continued effort to better execute design functions. For the purposes of this Element, this means accepting that the analysis of inquiries must be calibrated towards evaluating the extent to which they can offer *utility* to the policy designer. This takes us directly to the following well-known definition of policy design as:

> "the effort to more or less systematically develop efficient and effective policies through *the application of knowledge about policy means gained from experience, and reason, to the development and adoption of courses of action* that are likely to succeed in attaining their desired goals or aims within specific policy contexts" (Howlett 2011: 22, emphasis added).

In relation to our intention to study the inquiry as a policy design tool, this definition, and its encapsulation of the practice-orientated focus of design studies, is helpful because it moves us towards a selective study of the public inquiry. It does this by encouraging us to give attention to the inquiry functions (and research) which have specific utility to the policy designer and to do so at the expense of other aspects of the public inquiry, which are certainly important, but not necessarily applicable to instrumental design thinking. These omissions encompass the research that explores the political 'agenda management' functions discussed above (e.g., Acland 1980; Ashforth 1990; Prasser 1994, Stark 2020), and that

which documents the ways in which inquiries produce problematic social-psychological outputs (e.g., Gephart 1993; Brown 2004; Vaughan 2006). This is not because they are not important contributions (far from it) or that these functions do not deserve attention, but rather that they cannot be easily recalibrated and reapplied to the more instrumental dimensions of policy design thinking. Let us now turn to those dimensions directly by asking what the inquiry can produce in relation to the many practical challenges of policy design.

2.2 The Value of the Inquiry to the Policy Designer

Having set out our focus, we now turn to showing how the study of inquiries and policy design can produce benefits. In this section, we introduce four broad categories of function through which we will study all the varying ways in which inquiries can assist the policy designer. These categories tell us that the value of the public inquiry primarily rests upon the way in which it can open up reform pathways and possibilities in the first instance (the catalytic function), the way in which it can generate support for policy action and objects (the legitimation function), the way in which it can deliver data and analysis about policy tools and causal assumptions (the learning function) and the way in which it delineates recommendations about the specific minutiae of policy processes and policy architecture (the processual function). We discuss these categories in more detail in Section 3. We also make the case here that all these functions can be captured analytically by the definition of inquiries as *procedural policy tools* (Stark and Yates 2021).

Central to all the functions delineated above is the lesson-learning role. We need not labour to explain how inquiries play a role in relation to policy learning: they generate information, craft it into evidence and then translate that into the production of action-orientated lessons which are used as advice for decision makers. Evidence and advice therefore represent *the* products of a design relevant inquiry. This places the learning function at the centre of an inquiry's relevance (Stark 2018) and tells us that the other functions noted above, and the different effects they produce, emerge through the learning function. For example, the willingness of an inquiry to use authoritative procedures to generate evidence, and an openness to public participation as a means of learning, might both give an inquiry a legitimacy that few other policy analysis mechanisms can hope to enjoy. This means that they offer the policy designer a significant legitimation stamp that can, for example, bring disparate actors to the design table to collaborate or provide support for specific objectives, causal solutions, programmes or policy tools that have not enjoyed support in the past. Regardless of the form, these legitimating benefits emerge from the

fact that inquiries learn their lessons in ways that are different to the norm of policymaking.

Clearly, inquiries can be important to policy design. However, when discussing their importance, we need to continually remind ourselves that they are only advisory bodies, which means that the main game of policy choice and implementation is played elsewhere, usually at a time when the inquiry no longer exists. This has implications for how we conceptualise all the functions discussed above. We need terms that recognise that inquiries can have influence over policy change, but not directly. Thankfully pre-existing classifications can take us some of the way towards where we need to be in this regard. This is because, in the language of policy design and tools, inquiries can be understood to produce functions that make them 'procedural' rather than 'substantive' (Stark and Yates 2021). While a substantive tool directly impacts on citizens and tends to be thought of as the central component of a policy's design, procedural tools exist instead to perform a range of ancillary functions around their substantive counterpart (Bali et al. 2021). These might relate to data generation and policy analysis, coordination, implementation routes, or compliance for example. This does not mean that they are weak institutions that are not capable of producing transformative outputs. As we shall demonstrate, this is certainly not the case (Stark 2018). What it does mean, however, is that inquiries produce their effects *indirectly* by affecting the 'rules of the game' that others play rather than directly changing behaviour through the production and delivery of goods and services (Howlett 2000). Thus, in our previous work we have stated that a conceptualisation of the procedural policy tool:

> . . . sits comfortably with certain features of the public inquiry, the most obvious being that they are advisory bodies without any capacity to affect citizens via the production of policy. As inquiries cannot change anything, their entire focus can be construed as an effort to indirectly influence the political and policy behaviour of others. In this sense they are very much procedural policy tools, indirectly trying to affect the nature of substantive policy created elsewhere. (Stark and Yates 2021: 350)

It is a mistake, however, to view the inquiry as a mere bit part player that cannot have a substantial role in policy change. One of the reasons that inquiries are so different to the norm of everyday policymaking relates to the fact that they often have to learn lessons about significant issues which have either been caused or addressed poorly through 'normal' policymaking endeavours. Consequently, fresh eyes, independent thinking, external voices, independent authority and an expanded timeframe for deliberation are all brought to bear on an issue with the added pressure of a public spotlight. These characteristics can mean that inquiries

act as a catalyst that shakes policy out of its institutional grooves, punctuates equilibria and clears the way for a new policy path (Resodihardjo 2006). This capacity may well represent the most significant function that an inquiry can perform given what we know about the sheer extent of inertia, gradualism and incrementalism in policy change (Lindblom 1959; Pierson 2000; Mahoney and Thelen 2010). The fact that inquiries occasionally – and it is only occasionally – soften a policy space in ways that can facilitate 'first order' change (Hall 1993) can be meaningful for policy designers seeking to innovate and break from the moulds of business as usual. This might be particularly relevant, for example, when seeking to push away from incrementalism as a means of addressing wicked problems (a strategy discussed in detail by Head 2022).

We discuss this function in greater detail in the following section but what it means theoretically is that inquiries do not always conform to the typical view of a procedural policy tool. Instead, for analytical purposes, it is far better to evaluate the nature of inquiries as procedural tools by placing them onto a spectrum. At one end, we would see those rare inquiries which encourage catalytic and transformative effects, and at the other end would be inquiries which produce more typical procedural effects, which would be ancillary in nature (Stark and Yates 2021). This echoes pre-existing work on the policy change encouraged by public inquiries, which has typified inquiry outcomes into several categories from marginal to transformative (Inwood and Johns 2014: 47 and 292). However, the variable which shifts the needle from one end of the spectrum to the other, we argue, is the degree to which either the executive or the inquiry itself *controls* its functioning and outcomes. It is control, ultimately, that defines a tool in onto-logical terms. To be picked up and used presupposes that a user (in this case, the executive) can control a tool. It needs to be controlled with intentionality so that a desired outcome can be pursued. Policy tools are no different. However, inquiries represent independent entities which are meant to control themselves, and the history of those inquiries which have tended to transform policy suggests that autonomy and a willingness to do things differently was a key feature of their success (Stark 2018; Stark and Yates 2021). Therefore, when the control dial is turned towards executive sponsors, an inquiry is likely to produce typical proced-ural policy tool outputs. When the dial is swung towards inquiry independence and agency, more atypical and substantive outputs can materialise (Stark and Yates 2021), and the inquiry has more transformative potential as a policy design tool. The importance of control in relation to the public inquiry-policy design relationship leads us to reiterate Hesstvedt and Christensen's (2023: 342) conclu-sion that we need to know much more about the ways in which executives seek to control the knowledge that emerges through twenty-first century commissions of inquiry.

2.3 The Problem within Inquiries: Control, Complexity and Time

Clearly, inquiries can perform functions which policy designers can benefit from. Yet they are often convened reluctantly. Several reasons explain this reluctance. The most significant issue relates to what we have discussed immediately above – control. There are many instances in which inquiries have shown that they are not mere props to be used in the theatre of politics. Inquiry chairs have stretched their terms of reference, asked tough questions and delivered damning reports or demanding recommendations. In other words, you may not get what you asked for when you convene a powerful and independent mechanism to deliver your policy analysis and advice (Stark and Yates 2021). Moreover, the choice of whether to convene an inquiry is often taken away from executives. In many cases, inquiries are forced upon executives by political pressure or appointed by them because of a perception that they need to be used to avoid blame or survive politically (Sulitzeanu-Kenan 2010). Inquiries convened in such contexts are far removed from the concept of a policy design tool, and their functioning and advice may be seen as an imposition. What tends to happen in these contexts is that executives reassert their control after inquiries have reported by shelving or half-heartedly implementing their recommendations.

A second issue for any would-be inquiry user to think about is complexity. Here, the designer is on safer ground as this is a familiar problem. Yet the complexity involved in using an inquiry typically relates to process. For example, in order to get the most out of an inquiry's lesson learning capacity it needs to be used as part of a constellation of efforts shared across different agencies who perform a variety of tasks. In any learning episode, multiple actors will co-constitute evidence, transfer lessons once they are generated and then implement and institutionalise them across time. If these component parts are not understood as an interconnected whole, then the policy learning enterprise – the core function through which all design outputs materialise – is likely to produce sub-optimal outcomes (Stark 2020). This task is made harder by the fact that the range of actors who have authority to pursue their interests through an inquiry will change depending on its nature and the larger setting within which they operate. Some inquiries reflect the typical view that politicians are driving from the backseat while others put experts in the driving seat. Policy reviews may privilege the bureaucrat, especially if they fly under the public's radar, but when inquiries are very public, interest groups and advocacy coalitions may have much more influence. Thus, contrary to some views, inquiries are *not* simple mechanisms. They are comprised of many moving parts which can collide or complement each other. This complexity grows, moreover, as the