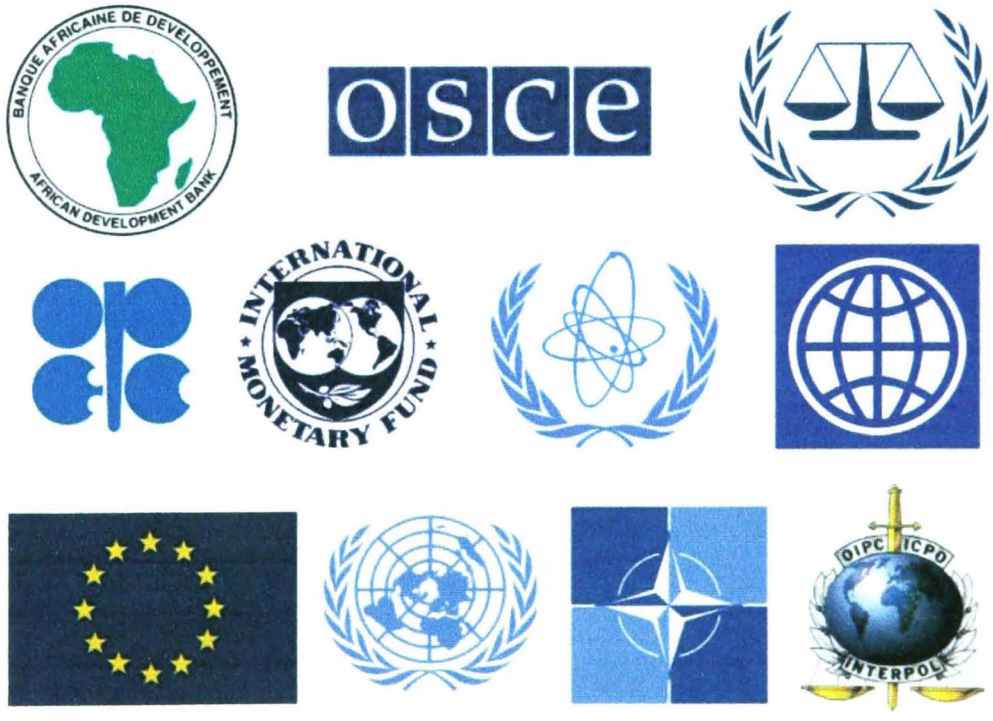
Fraud and Corruption in the International Governmental Organisation

Identifying the extent to which the investigation function of oversight offices in international organisations may be considered as a policing function and assessing the mechanisms for accountability thereof



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Professional Doctorate in Policing, Security and Community Safety

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February 2013

Abstract

Intergovernmental organisations (IGOs) such as the United Nations have long endured the same types of misconduct common to other employers, including fraud, corruption and mismanagement, exemplified by the seemingly ubiquitous Oil for Food programme. This thesis examines those bodies set up as a response to financial misconduct, the internal investigation offices. In doing so, the thesis addresses two fundamental questions: (i) to what extent can the internal investigation function be considered as policing; and, (ii) how accountable is the investigation function?

In researching these issues, the thesis compares the investigation functions of two IGOs, the UN and the OSCE. Both organisations enjoy various diplomatic privileges and immunities, which in turn has a profound impact upon both the sovereignty and accountability of the investigation office.

It assesses the investigation function by reference to public and commercial policing characteristics and also to policing accountability frameworks. The thesis subsequently proposes a dedicated accountability framework for internal investigations in the IGO environment, which is used to identify the applicable accountability mechanisms and relationships that the oversight office is subject to, and to assess the effectiveness thereof.

In applying this framework, it is found that a number of accountability lacunae exist, and that some of these can be addressed through the use of existing mechanisms, while others require changes to regulations that can only be implemented by the IGOs' member states.

The contribution of this thesis is in aligning the internal investigation function firmly with a public policing model, and thus permitting the application of a framework based on policing principles by which the effectiveness of accountability in the IGO context can be comprehensively assessed.

Keywords: intergovernmental, policing, oversight, investigation, audit, governance, accountability, framework, sovereignty, immunity, democratic, colonial.

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Acknowledgments

My appreciation goes to all those who participated with the research, whether formally or informally, from around the world. I cannot mention everybody by name, both in view of requests for anonymity, but equally for fear of omitting one of the many unheralded contributors to this work. However, officials from organisations as diverse as the UN (and its multiple agencies), OSCE, EU, Council of Europe, Interpol, national governments and the private sector all contributed and I appreciate that you were able to help despite competing demands for your time.

However, special mention should be made of the following, who, whether they are aware of it or not, contributed to the inception, undertaking and/or finalisation of this thesis:

To Mark for my first UN position, and to Esther for bringing me to the OSCE. Without each of these postings, the seeds of the initial idea for this thesis would never have been sown.

To Dr Nick Ridley, for starting me on the academic path by accepting me onto this programme, and for arranging the pivotal lecture in the professional doctorate course. This was given by Dr Paul Swallow, whose thoughts on the powers of transnational policing agencies provided the light bulb moment that crystallised the focus of the research, while a subsequent discussion helped instil sufficient confidence in my views of the sovereign nature of international organisations to help me take this important aspect of the thesis forward.

To my supervisory team, Professor Kevin Stenson and Dr Daniel Silverstone, who put up with multiple and often incoherent drafts; debated concepts with me; and provided the guidance necessary to focus my mind and bring the thesis into a comprehensible document.

To Dr Paul Ernst for informally reviewing important sections of the thesis through the critical eye of both academic and practitioner.

To Galib (now Doctor) Bhayani for leading the way and for the shared tales of both woe and encouragement.

And to Nadya, for helping and sustaining me more than you know. Thank you.

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List of Abbreviations

ACFE	Association of Certified Fraud Examiners
GA	General Assembly (UN)
HMIC	Her Majesty's Inspectorate of Constabulary
IAEA	International Atomic Energy Agency
ILOAT	International Labour Organization Administrative Tribunal
IGO	International Governmental Organisation/Intergovernmental Organisation
ILC	International Law Commission (UN)
IO	International Organisation (see also IGO)
IMF	International Monetary Fund
ITF	Investigation Taskforce (UN Mission in Kosovo)
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
OIO	Office of Internal Oversight (OSCE)
OIOS	Office of Internal Oversight Services (UN)
OSCE	Organization for Security and Cooperation in Europe
PA	Parliamentary Assembly (OSCE)
PC	Permanent Council (OSCE)
PSNI	Police Service of Northern Ireland
PTF	Procurement Task Force (UN OIOS)
SEA	Sexual Exploitation and Abuse
SG	Secretary-General (UN) or Secretary General (OSCE)
TNC	Transnational Corporation
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
USG	Under-Secretary-General

Chapter 1 – Introduction

Recent years have seen a proliferation in the numbers, size and prominence of International Governmental Organisations (IGOs). The expansion of such organisations has brought with it a commensurate increase in misconduct allegations. For example, the United Nations (UN) has been beset by high profile financial misconduct cases exemplified by the Oil for Food scandal. At the World Bank, a US senate report has estimated that a quarter of all its funds had been misused (McCormick, 2008). In 1999, the Commissioners of the EU resigned en-masse following corruption allegations. Other examples of actual and alleged misconduct abound.

Internal Investigation Function

This thesis examines IGO internal oversight offices, which were established to deal with much of the internal misconduct within their organisations. Although IGOs have historically dealt with misconduct in various (usually ad-hoc) ways, concerns over the misuse of funds within the UN prompted its member states to call for the establishment of an independent body to ensure professional and consistent oversight over the organisation's financial resources. This led to the establishment in 1994 of the UN Office of Internal Oversight Services (OIOS). OIOS was endowed with executive powers in protecting the UN's funds through the functions of audit, investigation and inspection/evaluation. The investigation function was tasked with investigating violations of internal UN rules. Other IGOs followed suit, and today, almost every sizeable IGO has an internal oversight office. Many are comprised of dedicated investigation and audit staff working alongside each other, though in some organisations, such as the World Bank and the European Union (EU)[1], the investigation function has been established as a standalone unit.

Although investigations take place in an administrative employment-based setting, investigative processes follow a pattern similar to police detective work with a view to establishing whether offences can be proven. While the internal oversight function is not a police organisation in the sense of being a uniformed government law

[1] The EU reformed its oversight function following the resignation of the Commissioners in 1999, leading to the establishment of its current oversight body, OLAF.

enforcement body, it nevertheless undertakes a 'policing' function in the broader sense, such as that defined by Bayley and Shearing (1996, p. 586) who distinguish between the police as a state organisation, and policing which encompasses "all explicit efforts to create visible agents of crime control".

In assessing the policing characteristics of the investigation function, this thesis will compare the oversight offices of two IGOs in particular. These are the UN (which, as the world's most ubiquitous IGO needs little introduction) and the Organization for Security and Cooperation in Europe (OSCE), which is the world's largest regional security organisation. It will examine the investigation functions of both organisations, and analyse how, and to whom, they are accountable for their actions. The choice of inclusion of the UN was an obvious one, being both a global IGO and having a correspondingly large investigation function. The OSCE, while smaller than the UN, still has a significant geographic spread with offices in a number of countries, as well as a dedicated internal investigation function. However, unlike many larger IGOs, the OSCE is independent of the UN system, and this enables the thesis to compare organisations that are similar in structure, but different in organisational culture and geographic composition.

It is important to distinguish between the more overt policing functions of these organisations from the internal oversight function. The UN is known for its policing and military roles in peacekeeping missions, and both the UN and OSCE employ serving or former police officers in advisory capacities for their expertise in matters such as policing policy, rule of law, anti-terrorism, security, etc. Such efforts are directed externally towards assisting member states or other territories[2], whereas this thesis deals with the internal policing function that examines misconduct affecting the IGO itself, whether as a result of employee misconduct or fraud being perpetrated by external parties upon the IGO.

Similarly, neither is this a dedicated examination of transnational policing or the role of IGOs whose core functions relate to law enforcement. Organisations such as

[2] In some cases, assistance is provided to territories that may not be official member states of the IGO because the recognition of a state party may be in dispute, such as in the territory of Kosovo.

Interpol[3], Europol and the International Criminal Court are excluded as the thesis relates to the internal policing of IGOs, and not their law enforcement role in supporting or investigating member states or other external parties. To put it another way, the focus is on policing as a means of maintaining corporate order within the IGO, and not policing as the raison d'être of the organisation. The operational functions of transnational policing organisations are a separate topic altogether[4].

Internal Investigations in Context

Central to the study of internal oversight is an understanding of the nature of the IGO itself. This is necessary to place the investigation function in context and facilitates an analysis of the applicability of both public and private policing models to the internal IGO environment. Certainly, a comparison with private sector corporate policing might make for a more obvious comparison. After all, the IGO is an employer and, in financial matters, it is prone to much of the same misconduct common to all manner of other organisations (e.g. fraud, theft and corruption). Further, private sector firms also have internal audit and/or compliance functions and many large and/or transnational corporations (TNCs) employ dedicated in-house investigation teams. Similarly, neither IGOs nor any commercial employers have judicial powers – their jurisdiction is administrative in nature only – and they are similarly restricted to imposing employment-based sanctions only, such as dismissal of errant staff members.

There nevertheless remain a number of other characteristics intrinsic to the IGO that bear comparison with public sector policing. The IGO's transnational status usually brings specific diplomatic immunities, which gives it a measure of sovereignty in the administration of its own internal affairs. Indeed, the autonomy of the IGO can be wide reaching, and can even include, for example, the exclusive right of its security personnel to employ lethal force on its premises. In this regard, the IGO has parallels

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[3] Interpol is not technically an IGO, primarily because it was founded by an informal network of police chiefs rather than by member state governments in an official capacity. Despite this, it still enjoys privileges and immunities similar to IGOs.

[4] The internal oversight structures of these IGOs could technically come within this thesis's remit. However, Interpol has an internal audit section, but no dedicated internal investigations unit; Europol comes under the jurisdiction of the EU anti-fraud office, OLAF while the ICC had not established an internal investigation function prior to the commencement of this research. For these and other reasons described in the methodology chapter, none were selected for comparative purposes.

with the definition of a nation state[5] as espoused by Weber (1948) and its premises enjoy territorial integrity in the Westphalian tradition. This thesis also highlights additional parallels with a more contemporary definition of the state as proposed in the 1933 Montevideo Convention. While not proposing that IGOs should be considered as equivalent in status to nation states, this thesis uses the shared characteristics to facilitate an understanding of the IGO's internal policing function and its accountability relationships.

Accordingly, the IGO inhabits a unique space with hybrid characteristics of corporate employer and nation state. In either context, policing can demand accountability from those accused of violating specified precepts. This is similarly the case with the investigation offices' sister function; audit, which is also about providing an account (Pearce, 1995). Indeed, the investigation functions in many IGOs, including the UN and OSCE, have their origins in internal audit, though the two functions now commonly work alongside each other within a single office. Consequently, despite investigation assuming an increasingly prominent role, references to internal oversight among IGOs and their member states are often synonymous with the audit function. For example, many IGOs have 'audit committees' whose role incorporates a review of investigation and other internal oversight functions – and not just audit alone. This thesis challenges the view that the policing function of investigation should be seen in audit terms and instead proposes that audit can in fact be viewed from a policing perspective. While auditors may not traditionally be seen in law enforcement terms (and many auditors are keen to disassociate themselves from this connotation), the concept of policing can be extremely broad, with some such as Fosdick (1915, pp. 3-4) claiming that prior to the late 18th century the English term 'police' was "wide enough to include the entire domestic policy of a nation". Accordingly, while it is argued that investigation is the reactive detection function, the thesis will describe how the audit function's proactive activities in the field of compliance and fraud prevention are compatible with the police patrol function.

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[5] Smith (1995) considers that the term 'nation state' only applies to a state whose inhabitants contain a single ethnic and cultural population coextensive with its borders. This inherently excludes countries with multi-cultural populations, which, in Smith's view can only exhibit characteristics of a 'state' rather than a 'nation state'. In referring to other countries, this thesis nevertheless continues to use 'nation state' as a term that is widely understood.

The nature of the audit and investigation functions is relevant to one of the main aims of this thesis, i.e. that of assessing accountability. While audit is a mature profession with professional standards, it is in the policing environment where accountability has previously assumed greater importance. Thus, considering accountability from a policing, rather than an audit, perspective, should provide a more comprehensive basis by which to consider the accountability of the oversight office, and the investigation function in particular.

In identifying the accountability relationships inherent in IGO policing, this thesis considers the oft-repeated idiom, "Quis custodiet ipsos custodes?" (who will guard the guards themselves?) In doing so, it is noted that IGOs are not directly accountable to any individual state. Rather, they are sovereign entities enjoying diplomatic immunities awarded by a collective of nation states rather than any single country alone. National criminal authorities usually have no powers to intervene in the internal affairs of an IGO. Indeed, they cannot even enter its premises without permission, and the IGO thus retains autonomy in the policing of its own premises, facilities and staff acting in their official role. This contrasts with commercial organisations, which are subject to the authority of the host country. There, the national authorities can decide to assume responsibility for any case, including those being investigated internally by the company.

Thus, sovereignty not only distinguishes IGOs from any commercial entity, but also defines the applicable policing accountability relationships. Indeed, the accountability relationships in private policing as identified by Stenning (2000), namely state regulation; industry self-regulation; criminal and civil liability; employment law; contractual liability; and, market accountability – are largely inappropriate mechanisms by which to assess policing in the IGO sector. This is partly due to the invalidity of national laws and state regulation within the IGO, but also because free market structures are largely non-existent within the IGO environment.

Sheptycki (1995, p. 615) drawing on the work of Walker states, "policing is intimately bound up with the imposition of the nation-state system". By virtue of its sovereign characteristics, the IGO also enjoys a number of key similarities with such a system, allowing this thesis to consider accountability relationships from a public policing perspective. It is however important to note that much of the available policing

literature focuses on accountability in a democratic policing environment, despite the fact that accountability is not necessarily synonymous with democracy. In fact, democracy does not exist in the internal administration of the IGO. Although IGOs are often keen to propagate notions of good governance, democracy and transparency, this thesis will describe how these same ideals may be absent within the IGOs themselves.

In particular, despite being notionally democratic through the medium of majority voting by governing bodies, such as the UN General Assembly, true internal democracy is absent, with rules and values imposed by a political elite upon the intrinsically multi-cultural staff population which has little outlet for the formal expression of its views. Even the larger and more diverse IGOs tend to be dominated financially, culturally and even linguistically by western democratic states, and the internal regulations of the IGO correspondingly tend to follow western governance (but ironically not western democratic) values. These are seen in the economic focus of the mandates given to the internal oversight offices in pursuance of protecting the investments of the countries that are the largest financial contributors. Indeed, despite the various scandals the UN has endured through the misconduct of peacekeeping troops who have engaged in sexual abuse and human rights violations, the main purpose for which oversight offices were formed was financial, and not humanitarian. While some oversight bodies can and do investigate such matters, this must be seen as secondary to the financial function for which they were formed.

Policing and Accountability

In categorising the IGO policing function by reference to Mawby's (1990; 2008) criteria of legitimacy, structure and function, it can be seen that internal oversight begins to resemble certain characteristics inherent in a colonial model of policing, i.e. one imposed by the more powerful states, who require the enforcement of economic governance based on rules that may be alien to parts of the multi-ethnic staff population. The thesis acknowledges these characteristics in developing a policing accountability framework by which the internal oversight office can be assessed. In doing so, emphasis is also placed on the landmark report on policing in Northern Ireland as prepared by the Independent Commission on Policing for Northern Ireland (the Patten report) whose proposed reforms provide an aspirational framework (even

the UK government did not adopt all of its findings) for policing accountability, albeit with a heavy focus on the active engagement of community stakeholders in the policing and accountability process. Given that this is at variance with the non-democratic structures inherent within the IGO, the framework is tailored accordingly with particular regards to the relationships between the oversight office and (i) the delegates of member states; (ii) the staff population; and (iii) the hierarchical relationship with the chief executive officer or secretary general. An accountability framework for the IGO's internal policing function is then proposed based on political, community, hierarchical, legal, internal and financial accountability.

Subsequently, the thesis examines the extent to which the oversight offices provide the requisite accountability under each of these headings, and identifies areas where they may be deficient. In doing so, it is concluded that while there are accountability mechanisms available to the member states for monitoring the work of internal oversight, the member states do not make full use of these mechanisms. In the accountability relationships that exist between internal oversight and the secretaries-general of the respective organisations, it is noted how this is highly dependent upon the mandates formulated by the member states. Separately, it is also found that the oversight office has no formal mechanisms to be accountable to the staff population it polices, as is consistent with a colonial policing model. Similarly, legal, internal and financial accountability differ depending on the specific mandates of the IGO but accountability lacunae are identified in almost all areas.

Chapter Guide

It is intended that the research should lay the basis for understanding the oversight office as a policing function, and the accountability relationships it is subject to. This is facilitated by an appreciation of the unique political environment in which it operates. In measuring accountability through a theoretical policing framework it is intended that this analysis should assist the oversight practitioner in helping to identify and address accountability gaps within other IGOs with a view to enhancing governance, accountability and legitimacy. In addition, this thesis should provide a broad foundation for further research into policing within the IGO.

The thesis is organised into seven further chapters. Chapter two deals with the methodology, and explains why the UN and OSCE were chosen as a basis for comparison. It proceeds to note the author's interest and experience of these organisations and discusses the sources of information used in the compilation of the thesis. It also describes the comparative elements of the research, and the necessity of conceptualising the IGO alongside nation states, which is necessary for a fuller understanding of the policing role of internal investigations. Chapter three is the literature review, which notes the absence of literature on oversight offices as a policing function. While there is ample literature on IGOs and their external accountability, the degree of knowledge on internal accountability has been lacking. The fourth chapter introduces the IGO and discusses its structure, objectives and management, and introduces the oversight office and the topic of accountability. It discusses the cultural and value issues that arise within an IGO, and how these tend to reflect governance practices derived from western democratic ideals that are ironically absent from the internal administration of the IGO. Chapter five looks specifically at the role of the internal oversight office and describes how it may be considered in policing terms. It analyses its composition and mandate and distinguishes the policing roles of the audit and investigation functions. Notwithstanding the similarities with commercial policing, by assessing the accountability relationships applicable in the private sector, the thesis identifies key differences between policing in the IGO and policing in the corporate environment. It also notes how accountability characteristics can be compared with those inherent in the colonial policing model. The sixth chapter proposes a tailor-made accountability framework for policing within the IGO, taking into account the absence of a democratic policing environment. Chapter seven then proceeds to analyse the extent to which the UN and OSCE oversight investigation functions are accountable within this framework. The conclusions are in chapter eight, which describes whether or not the accountability mechanisms are sufficient, and suggests how any shortcomings may be addressed.

Chapter 2 – Methodology

This chapter examines the research methodology used in the compilation of this thesis. It begins by describing the author's professional background and his interest in, and knowledge of, this topic and how the parameters of the study came to be decided. It proceeds to note the reasons for the selection of the two IGOs compared in this thesis. It then describes the theoretical and empirical research methods applied, and notes how the absence of analytical literature has led to this being a broad multi-level comparative study. The chapter concludes with a note on the ethical issues inherent in a critical study of the author's current and previous employer.

Professional Experience and Observations

IGO internal oversight offices remain young in historical terms and this helps explain the lack of prior academic scrutiny on the topic. The international law enforcement community is only slowly becoming aware of their existence. The author only became aware of them in 2004 while working with the Sierra Leone Anti-Corruption Commission when attempting to obtain witness evidence from two separate UN agencies in pursuance of criminal corruption inquiries. Unfortunately, both declined, citing diplomatic immunities. This led to an awareness of the unique sovereignty enjoyed by IGOs, and subsequently, the existence of the UN Office of Internal Oversight Services (OIOS) where the author was later employed as an investigator. Further employment experience in similar roles at the OSCE and the United Nations Population Fund (UNFPA) reinforced the notion that investigation fulfilled a policing role in each organisation and provided first-hand experience on the topic of oversight accountability mechanisms.

The OIOS assignment was largely spent in Kosovo on a multi-agency team, the Investigation Task Force (ITF), with colleagues from another IGO, the EU's anti-fraud office (OLAF). Here, the UN was granted executive powers to run an interim government administration, and the ITF was mandated to inquire into fraud and corruption therein. This gave the ITF investigators extensive authority over the entire government apparatus in the territory and prompted further insights into the wide-ranging sovereignty enjoyed by IGOs.

While accountability was an ever-present subject in OIOS, the actual term, 'accountability' was rarely heard in the investigation function. Discussion focussed instead on related subjects such as independence, authority and reporting. In 2008, the author moved to the OSCE internal oversight office, tasked with establishing the investigation section. There, debates about the very same subjects of independence and reporting were frequent, but because investigation was a new function attached to an incumbent audit office, accountability was inevitably viewed from an audit perspective, and discussions were led by the Director of Internal Oversight, herself an auditor. Further, because of the closer physical and organisational proximity to the top decision makers (the Secretary General, and the member state delegates), the debates assumed more direct relevance. It was notable how much political pressure the oversight office was subjected to, not so much from the member states as from other internal actors who had their own interpretation of political priorities. These pressures led to considerable discussion on the interpretation of the oversight office's mandate, and how particularly to maintain independence and legitimacy while still being accountable to the primary stakeholders. Certainly, the topic of accountability was more omnipresent in the IGO environment in contrast to the author's prior experience in national law enforcement agencies (HM Customs & Excise, the UK Serious Fraud Office and the Sierra Leone Anti-Corruption Commission).

The study for this professional doctorate commenced shortly after the author began working for the OSCE. While formulating the parameters for a thesis on the legitimacy and accountability of oversight, a lecture by Dr Paul Swallow in 2009 on the use of anti-terrorism policing powers by international organisations (in particular Interpol and the EU) proved to be pivotal. The lecture covered how the policing powers of supranational organisations can encroach upon the sovereignty of member states. This led the author to view IGOs not only as a threat to the sovereignty of nation states, but – in view of the immunities enjoyed internally – as sovereign bodies themselves in regards to their internal administration and policing capacity.

This notion is expanded herein as a means of understanding the nature of the IGO. The initial part of the study adopts a largely theoretical basis in analysing the characteristics of the IGO compared to both public and private sector entities. While there are similarities between the IGO and the private sector, the more significant

parallels are with sovereign states and this has led to the conceptualisation of IGOs as independent entities sharing characteristics with nation states as defined both by sociologists such as Weber, but also by contemporary sources such as the Montevideo Convention on the Rights and Duties of States. Highlighting these similarities facilitates an understanding of the territorial jurisdiction of the internal oversight function and its autonomy vis-à-vis individual states, and also its accountability relationships with the legislative, executive and judicial organs of the organisation. There follows an assessment of the policing function by reference to policing definitions and practices.

Initially, it was considered that the oversight function had to be characterised in policing terms before considering which accountability mechanisms could appropriately be applied. However, during the research, it became apparent that the accountability relationships themselves were central to defining the nature of oversight and policing. For example, the accountability mechanisms inherent in commercial policing are largely inapplicable in the IGO context, whereas the accountability relationships in public policing are more directly comparable. The thesis then proceeds to undertake a practical comparative study of the effectiveness of these accountability relationships as they apply to the investigation function across the UN and OSCE.

The author's direct insights from working with the UN and OSCE were certainly a relevant factor in selecting them for comparative purposes. However, there are other good reasons for comparing these IGOs. Firstly, many of the larger IGOs (e.g. United Nations Development Program (UNDP), International Atomic Energy Agency (IAEA)) tend to be UN agencies themselves under the auspices of the overall UN system and ultimately accountable to the UN General Assembly (GA) and the UN Secretary-General. Prior to establishing their own internal investigation functions, many of these agencies relied on OIOS to conduct investigations on their behalf, and some of the smaller agencies still do[6]. While a pan-UN study would certainly reveal differences in approach, comparing the investigation function solely within the UN system might also limit the relevance of this thesis. The OSCE is not a UN organisation but is

[6] There have also been recent proposals to consolidate the investigation function of the various UN oversight offices into one overarching body (Joint Inspection Unit, 2011a, section VI).

structured along similar lines, with field missions in host countries, albeit on a smaller organisational and geographic scale. Even some of the rules and principles in the OSCE have origins in the UN although subsequent practices have diverged with the maturity of the organisation. It also remains one of the larger IGOs outside the UN system with its own internal investigation function. These characteristics make the two organisations suitably similar in outlook and structure but sufficiently different in culture and geographic composition to merit a comparison of their internal policing functions, which should highlight a greater diversity of approach than would be expected across two UN agencies[7].

Other IGOs that could have been considered are the European Union's anti-fraud body, OLAF, and the multi-lateral development banks. However, the EU may also be seen as a supranational organisation whose member states pool sovereignty (European Commission, 2007), and is viewed by some as having federal aspirations[8]. Indeed, it is also mandated to exercise limited powers in criminal investigation matters within member states through the medium of Europol (and, to a lesser extent, OLAF). This is not the case with the policing function of most IGOs, which were established to exercise jurisdiction internally[9]. Separately, the multi-lateral development banks[10] all investigate financial crime, including internal misconduct, but the main focus of their work is on fraud perpetrated in aid programmes funded by the banks, which inevitably leads to a greater focus on investigations into external third parties. Additionally, both the EU and the development banks have dedicated investigation offices that are not integrated within a holistic oversight office comprising an audit function. None of these factors individually preclude these organisations from a comparative study, and where applicable, references to such IGOs is included for illustrative purposes.

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[7] For those interested in comparisons solely within the UN system, the reports of the United Nations Joint Inspection Unit on internal oversight functions (which are frequently referred to in this thesis) provide further background.

[8] The current EU Commission President, Manuel Barosso, has specifically called for the EU to evolve into a federation of nation states (BBC, 2012a). Kelemen (2005) sees the EU as already being a federal system and cites multiple authors in support of this view.

[9] There are specific instances where individual countries cede sovereignty to other IGOs, and by extension their oversight offices, such as in certain peacekeeping missions. However, this tends to be incidental to the mandate of the oversight office. While this is nevertheless an important characteristic that is examined further in the thesis, the primary focus of this research is the internal administrative roles of the oversight offices rather than any external criminal jurisdiction they were established to exercise within the territories of otherwise sovereign states.

[10] The World Bank is an autonomous 'specialised agency' of the UN. In addition, there are other development banks, such as the regional development banks (e.g. Asian Development Bank, European Investment Bank, Inter-American Development Bank, etc).

However, the focus of this thesis remains on the UN and OSCE, which allows for a more direct comparison within the confines of this thesis.

Methods Adopted

In undertaking this research, an eclectic approach using theoretical and qualitative empirical methods was used. According to Silverman (2006, p. 8), "Both science and everyday life teach us that there is no 'right' method to proceed. Everything depends on what you are trying to achieve." This remains foremost a comparative study in which qualitative research methods have been used throughout. These methods are largely concerned with understanding "individuals' perceptions of the world" (Bell, 2005, p. 7), which is particularly relevant in the context of accountability where the perceptions of the parties receiving the accounts are important. Quantitative analysis was not practical for this study where the main focus is on two organisations in particular rather than on a large number of IGOs where such analysis across a range of stakeholders would be more beneficial. In a two-way comparative study, there are only a limited number of heads of oversight that can be canvassed, for example. While this limitation may not apply to other stakeholders (e.g. diplomats and investigators) this would have meant a lack of consistency of approach across the various groups surveyed.

Instead, a comparative study has been adopted. Mawby (1990) states that comparative studies may be approached from either practitioner or theorist perspectives and this study used both in pursuing a comparative approach on several levels: between (i) IGOs and nation states; (ii) oversight policing and accountability across public and private policing models; and, (iii) oversight accountability mechanisms between different IGOs. This wide-ranging approach was necessary in view of the absence of existing literature. The first two elements are grounded in theoretical research, and these in turn led to the third major comparison which was undertaken very much from the view of the author as a practitioner using real-world insights acquired over the past seven years, consistent with the nature of the professional doctorate programme. Mawby (1990) also considers that international comparisons permit the development of theoretical models, and in this thesis, it has led to a proposed accountability framework for IGO policing. This aspect is considered of particular benefit for the practical application of accountability mechanisms in an IGO setting.

Nevertheless, the author's role as a practitioner highlights a potential pitfall in that it cuts the researcher off from particular demographics, i.e. the author is an investigator, so is less able to observe the views of individual staff subject to investigations. In addressing this, the author used other information sources in conducting the research. This helped to guard against another potential disadvantages mentioned by Hammersely and Atkinson (2007, p. 84):

> "The participant will, by definition, be implicated in existing social practices and expectations in a far more rigid manner than the known researcher. The research activity will therefore be hedged round by these pre-existing social routines and realities."

In this context, it must be acknowledged that while the author worked for the two organisations in the comparative study, it cannot be fully considered as 'complete participation' where the researcher is a member of the group he or she intends to study (Hammersley & Atkinson, 2007). This is because the author only worked in one of the internal oversight offices (the OSCE) during the full duration of this study. Many of the observations from the author's employment with the UN took place before the commencement of this research. This affords the possibility of bias towards the OSCE. The author attempted to retain a balance by engaging with serving UN officials to confirm his understanding of practices and procedures. Some assisted by being party to formal interviews (see below), while others assisted informally with the provision of background information in confirming the author's recollection of events while working at the UN.

The core element of practitioner observation was supported by a significant amount of theoretical research. Much of the information concerning IGOs was drawn from publicly available material. Notwithstanding the lack of direct academic research into the nature of internal policing in the IGO, there remains a considerable amount of material from which to bring research together from the fields of international organisations, policing and general studies on accountability. Much of this originates from the IGOs themselves (particularly the UN) and includes, for instance General Assembly resolutions, as well as publications and reports of the UN's external oversight body, the Joint Inspection Unit (JIU). Elsewhere, diverse material was obtained on the role of the international civil servant, reform of the UN, reports of member states and professional guidance for the audit and investigation professions.

Using these sources, the theoretical research examined policing and accountability generally, and IGOs and oversight offices specifically. The former was necessary given the absence of previous attempts to conceptualise the role of the IGO and its policing function in sovereign terms, or to apply a policing accountability framework. As regards the literature on IGOs themselves (and oversight insofar as it exists), it is acknowledged that almost all the relevant literature is heavily weighted towards studies of the UN. Nevertheless, a large part of this research examines and analyses the mandates and related documents of the selected oversight offices, which are specific to the respective organisations. Further, the texts more applicable to the UN often proved to be of generic use insofar as principles on universal topics as independence and accountability could be applied to oversight offices more generally.

Empirical research was also used to supplement the primary observational and theoretical research in order to obtain further viewpoints and clarification of the information already obtained. While not forming the core of the research, the author did not wish to ignore one of the main advantages of holding practitioner status, i.e. access to the views of the wider oversight community. In eliciting data from individuals, the author opted for interviews as the primary method of information, which is "probably the most widely employed method in qualitative research" (Bryman & Bell, 2007, p. 472). These interviews helped to provide insights and explanations into accountability topics and also provided a counterbalance to the author's own views as a practitioner.

While interviews "are a highly subjective technique and therefore there is always the danger of bias" (Bell, 2005, p. 157), this was not considered a major issue in view of their limited and supplementary role in the overall research programme. Those questioned included the United Nations Under-Secretary-General of OIOS, who is the world's highest-ranking oversight official (and also previously served on the OSCE audit committee). Other interviewees were two former Heads of the OSCE internal oversight office, one of whom was also formerly a director of the UN's OIOS. Another prominent interviewee is a serving member of the OSCE audit committee and former director of the Council of Europe oversight office. In addition, information was solicited from a senior UN investigator, diplomatic representatives of two participating states of the OSCE, and the judge of an international administrative

tribunal, each of who requested anonymity and are referred to only by generic job titles. This was in addition to informal discussions with investigators at various levels across the IGO community who provided background information.

Interviews were recorded by handwritten notes. Oversight officials, some of whom have law enforcement backgrounds, can be reluctant to divulge information on tape. Interviews were semi-structured in view of the short time available to meet with certain officials and because accountability was not always a topic that some officials considered to be a topic of immediate relevance. Some officials were more interested in operational matters than with accountability mechanisms and it therefore proved helpful to have a more discussion based approach rather than structured interviews.

In selected instances where an interview was impractical, the author resorted to using a questionnaire. Although responses to a questionnaire have to be accepted at face value which inhibits the interviewer from developing and clarifying the response (Bell, 2005, p. 157), the respondents in these cases had already requested anonymity and were careful about what they were willing to divulge. Further, the door was left open for follow-up questions and the author therefore considers that no further information of significant value would have been gained from conducting physical interviews in these cases.

Ethical Considerations

In the course of this research, the author came across a significant amount of confidential material but was careful only to quote from such reports where they have already been leaked into the public domain. Otherwise, any confidential information that has been used was redacted in the interests of discretion and complying with ethical guidelines. Further, the anonymity of those who requested it has been fully respected.

In addition to maintaining appropriate confidentiality, another potential conflict in this research is that between loyalty to the employer (past or present) and objective criticism. The nature of the research was disclosed to the former director and acting director of oversight at the OSCE as well as the current Under-Secretary-General of oversight at the UN, each of whom participated as interviewees. Furthermore, the author's current line manager and incumbent OSCE director of internal oversight has

been fully appraised as to the nature of the study and given the opportunity to provide any feedback or concerns. Indeed, this thesis directs academic criticism at both the UN and the OSCE. However, much of this criticism is not so much derived from esoteric knowledge, but can in fact be inferred from public information. Sometimes this criticism has been reinforced through information obtained through the author's privileged position of access, but in all cases it is used to provide further insights into the accountability of the oversight functions throughout the IGO universe and much of this criticism is equally applicable to any number of IGOs. Further, the analysis herein is intended not as a means of deriding any particular organisation, but rather as a means of critically analysing their policing functions and accountability mechanisms as the basis for future improvement. Enhancing internal accountability is consistent with the objectives of both organisations who in turn promote good practice in governance and accountability among their member states.

Finally, a note on the use of terminology. The chief executive or administrative officer can go by various titles depending on the IGO, but in the UN the incumbent's title is the Secretary-General while in the OSCE it is the Secretary General. The state parties of the IGO are referred to generically as member states, except where specific reference is made to the OSCE, which is composed of 'participating states'[11]. The gender of all interviewees who requested anonymity has also been disguised which has required occasional recourse to the somewhat inelegant but suitably ambiguous phraseology of 'he/she'. Further, all references to the respective Secretaries-General are masculine, not only for ease of reference, but because all incumbents to date have been male.

Having noted the lack of analytical literature on policing and accountability insofar as it relates to the oversight office, the next chapter proceeds to examine the material (or the absence thereof), which was identified during the course of this research.

[11] This terminology is rooted in the establishment of the OSCE as a conference when it was formerly called the Conference for Security and Cooperation in Europe (CSCE).

Chapter 3 – Literature Review

At the commencement of this research, the author struggled to find literature relevant to the oversight office, which proved to be a hindrance in basing the research on information previously established through rigorous and systematic studies (Stringer, 2007). Conversely, the absence of a substantial body of such literature also provided the author with a large field to explore, although this brought with it the temptation to cover a significant amount of academically unexplored territory. Nevertheless, as the parameters of the thesis developed, both scholarly and practice-based literature on the topics of policing, accountability and IGOs was identified which helped to keep the research within boundaries. This chapter describes the literature uncovered during the course of the research, and which, insofar as it exists, provided the framework within which this thesis attempts to address the policing and accountability aspects of internal oversight.

Policing Literature

Policing has long been studied as a function of the nation state and there is also an increasing body of literature on private and/or corporate policing. However, the IGO internal oversight office falls into the gap between these two models. Indeed, there is a notable absence of academic literature on internal oversight, and most research on IGOs is focussed on their relations with nation states and their impact on world affairs rather than their internal administration, although the increasing attention to UN reform is beginning to address this. Certainly in regards to policing, the literature is aimed at external peacekeeping efforts, rather than the internal policing of IGOs.

While this review is concerned primarily with illustrating the state of knowledge on the nature and function of the oversight office, much of the research involves the application of policing knowledge and principles gleaned from more general policing literature. The topic of policing is itself a broad one, and is covered by multiple authors too numerous to articulate here. However, mention should be made of some prominent academics whose work appears in the wide-ranging compendia of texts in both the Handbook of Policing and Policing Key Readings. Of notable value are those texts by Emsley (2008) and Rawlings (2008) which provide historical insight into the development, definition and roles of the police in a nation state context. Bayley

(2005) describes the activities of the police in a more contemporary setting while Westley (2005) adopts the view that policing exists to support the dominant political class, which may be considered a neo-Marxist viewpoint but certainly has parallels in the IGO setting. Mawby describes differing models of policing both in the Handbook of Policing (2008) and in more detail in his book on Comparative Policing Issues (1990). These provide a framework based on legitimacy, structure and function, which helps in assessing policing in the IGO environment. Mawby proceeds to assess differing policing models by these criteria, and while some of the models can appear somewhat generic in nature, they otherwise provide a solid foundation for examining international models of policing.

Bayley and Shearing (1996) discuss trends including plural policing which is relevant in the IGO setting where despite the existence of multiple bodies, none can be readily identified as 'the police' as they exist in the nation state environment. In his examination of transnational policing Walker (2008) acknowledges that not all actors have the state as a reference point even if policing is integral to the concept of the state itself. While policing in international organisations can easily lead to the assumption that the topic involves transnational policing issues, they are of only limited relevance to this thesis. Sheptycki (2004) for instance has also written much about transnational policing and even specifically about accountability but his writings focus on transnational policing organisations (e.g. Interpol and Europol), as opposed to internal oversight, which is about policing misconduct *within* international organisations. Separately, Gaspar (2008) notes the trend in policing towards information sharing at a transnational level and while the internal oversight function remains inherently inwards looking within the IGO, oversight offices are increasingly beginning to co-operate both among themselves and with national policing agencies,.

Literature on Internal Oversight Offices

Notwithstanding the growing body of academic work on policing, it is the application of these texts to the IGO which remains a largely unexplored gap that this thesis attempts to address. Even those texts that deal with the internal structures of the IGOs rarely give more than a passing mention (if at all) to the existence of internal oversight. This is as true of academic journals (such as 'International Organization') as it is of books dedicated to the management and administration of the IGO.

One of the rare exceptions is the volume on Accountability, Investigation and Due Process in International Organizations (De Cooker, 2005). Two chapters in particular merit discussion. The first, by De Cooker on Ethics and Accountability in the International Civil Service is a wide-ranging attempt to describe the differing ethical standards and investigation procedures across a range of organisations. As a result, different organisations are described across different sections of the chapter, thus making any sustained comparisons difficult. For instance, De Cooker moves between at least ten different IGOs including the UN, World Bank, Council of Europe, EU and others. Sometimes he compares one IGO with another, and then in the next section describes completely different organisations. The sections on investigation towards the end of the chapter briefly describe the activities of several investigation offices and give short case examples. These can be helpful in describing the nature of the work of investigation offices, but as with the rest of the chapter, this appears to be a compilation of publicly available information and provides an overview of IGO codes of conduct rather than a detailed analysis. Further, some of the conclusions are unconvincing. For instance, De Cooker states, "The introduction of guidelines *may* have been helpful in achieving [high ethical conduct]" (emphasis added). He then notes that "Many staff remain lost and frustrated, however", although the evidence for this is hard to find. It should also be borne in mind that this was written in 2005, and some of the codes referred to have since been superseded or revised, e.g the Asian Development Banks's policy on debarring firms from future business. Accordingly, this chapter should be considered as an introductory summary of internal regulations rather than adding particular insights into the topic. This contrasts with another chapter in the same volume by Loirot, who provides a more in-depth look at accountability, albeit exclusively in relation to the UN. While barely touching on the UN oversight office, he nevertheless discusses the difficulties in holding more senior staff to account for wrongdoing. He further proceeds to analyse some of the reasons for the ineffectiveness of the member states in holding the organisation to account, including what he describes as 'institutional amnesia' and contempt by management for proper internal accountability. While again this work precedes various reforms in the UN, and in particular its legal system, this chapter provides useful insights into the some of the organisational issues faced within the IGO environment.

Another rare contribution to the study of internal oversight is the compendium of articles titled 'The fight against corruption: international organizations at a cross-roads' in the Journal of Financial Crime (2008). This comprised writings by oversight practitioners and civil society. Among the contributors are Gough, a former assistant director of OIOS, who provides some factual background into corruption investigations by OIOS and outlines some cases investigated. Zimmerman considers the internal control environment within the Inter-American Development Bank. Brüner, as erstwhile Head of OLAF tackles some of the obstacles faced by IGO investigation offices, while Ugaz looks at the difficulties faced in the World Bank. Pedersen proceeds to consider some of the sanctions available to the development banks in tackling corruption. While some of the articles are more descriptive than analytical they provide concrete background information to the activities and challenges of investigation offices in tackling corruption upon their institutions as perpetrated by internal and external parties.

Further sources of reading are the reports of the Joint Inspection Unit, who are the external oversight mechanism for the entire UN system[12]. Despite criticisms of the JIU including the fact that many of their recommendations are not followed up (Andersen & Sending, 2011, p. 29) their reports provide valuable background into the practical issues facing the oversight office. They include comparisons between the processes used across internal oversight bodies within different UN agencies. Of particular note are reports on oversight lacunae (2006) and the investigation function (2011a). The former looks at areas covered by this thesis, but examines the UN more broadly and does so without applying the methodology inherent in an accountability framework, thus resulting in a more fragmented approach. The JIU reports to the General Assembly, whose own deliberations also provide insights into the workings of OIOS, but as with any reports requiring majority agreement across 193 member states, the language is often heavily diluted to achieve political compromise.

The reflections of former Under Secretaries-General (USGs) of OIOS provide some insight into the nature of oversight offices. Karl Paschke (1998), the first Under-

[12] While applicable to the UN, in many areas the OSCE looks to the UN for guidance on how tasks are performed. Accordingly, JIU reports may also be influential, and have been discussed frequently in the OSCE internal oversight office. Indeed, JIU inspectors often meet with representatives of other IGOs (including the OSCE) in order to establish best practices. See for example reports JIU/REP/2010/5 (Joint Inspection Unit, 2010b); JIU/REP/2011/5 (Joint Inspection Unit, 2011b).

Secretary-General of OIOS, gives his views on the moral values of the UN, and the difficulties of adhering to a common value system given the multi-cultural setting of the IGO. More recently, the leaked 'end of assignment report' of the former USG, Inga-Britt Ahlenius (2010) provides an insider's view into the political battles faced by the department, even if some emotive language concerning her clashes with the current UN Secretary-General is evident. To review this from a more balanced perspective, it will be necessary to await the memoirs of Ban-Ki-Moon[13].

Leaked reports provide a certain amount of insight into the inner workings of oversight offices. They are often obtained online through media outlets such as Inner City Press and Fox News, both of which commonly criticise the conduct and accountability of the UN in particular (the latter playing to the US domestic right wing antipathy towards IGOs). Other leaked reports pertaining to internal oversight include those by Girodo (2007) on the culture of OIOS and Grimstad (2007) on recommendations for improving investigative work practices. These reports were compiled during a period of internal conflict within OIOS, and the intent behind the commissioning of both studies was subject to much internal debate. Both reports direct criticism to one OIOS regional office in particular, which was exaggerated in this author's view. Indeed, the author was interviewed during the research for both studies, which caused him to question the neutrality of the methodologies used by Girodo in particular. These reports are therefore not referred to in this thesis (with one exception to provide background illustration into a factual matter, rather than for analysis). Nevertheless, the reports do provide further background into the general nature of the work of the investigation office of OIOS.

A more serious attempt at reviewing the workings of an internal oversight office was conducted by Paul Volcker (2007) at the World Bank. While not directly mentioning the UN or OSCE oversight offices, it describes some of the issues faced by investigation offices, including a lack of trust and/or legitimacy amongst other units, and proposes remedies for shortcomings. The issues described are largely transferable across internal investigation offices elsewhere. It should also be noted that Volcker (2005) was also responsible for the UN Oil for Food report (2005). This weighty

[13] Others such as Andersen & Sending (2011) have also noted the tensions between the Secretary-General and Under-Secretary-General Ahlenius.

report focuses largely on the OIOS audit function, although investigations do feature albeit to a much smaller extent. While the report does contain some background on the operation of the investigations division, as well as recommendations for improving it, perhaps its biggest contribution was in identifying issues with the independence and reporting abilities of OIOS in general, and this was a precursor to changes in reporting lines to allow more independence for OIOS and provide for additional scrutiny by the UN General Assembly.

Administration and Accountability of IGOs

In the absence of other significant contributions dedicated to the study of internal oversight, it is possible to examine more general texts on IGO administration and accountability. This is also important from the point of view of understanding the context of the internal oversight office. The autonomous characteristics of the IGO have profound implications for the sovereignty, jurisdiction and accountability of the oversight office. While some efforts have been made to assess the sovereign character of IGOs, there has been little attempt to conceptualise the role of IGOs as sovereign actors in regard to their internal enforcement jurisdiction. Those texts that do attempt to cover the issue of sovereignty are more concerned with the powers and independence of the IGO as they affect its member states. Nevertheless, they do provide a starting point for understanding the environment in which the oversight office operates, even if they relate to UN reform in particular. This further serves to highlight one of the major issues facing the researcher in the IGO field, which is that most literature focuses primarily, if not exclusively in many instances, on the United Nations.

In The Politics, Power and Pathologies of International Organizations (1999), Barnett and Finnemore examine the organisational features of IGOs and argue that the rational-legal authority in the Weberian tradition gives them power independent of the member states. However, the authors do not so much examine the diplomatic immunities afforded to IGOs but rather refer to their bureaucratic characteristics as the basis for their autonomy. The authors pursue this argument in a subsequent text, Rules for the World (Barnett & Finnemore, 2004), and while also making reference to delegated authority as one of the cornerstones of authority enjoyed by the IGO, they remain focussed on bureaucratic autonomy which is discussed vis-à-vis relations with

member states rather than internal governance. The authors also make reference to the IGO as an actor through whom states act, and this Principal-Agent relationship provides another approach to understanding IGO autonomy. Such an analysis can provide an understanding of how the IGO can exercise power externally, and this theme is picked up by Sarooshi (2005) whose legal analysis considers differing vehicles for the exercise of state powers by IGOs. These include not only agency powers at one end of the spectrum, but also powers conferred upon the IGO by governments. While Sarooshi considers that the nation state is the starting point for any debate over IGO sovereignty issues, his research again covers the relationships between IGOs and nation states, and not the internal administration of the IGO. A more recent addition is International Organizations (Hurd, 2011), which discusses the conceptual space occupied by IGOs between state sovereignty and legal obligation. This also covers the issues of how sovereignty affects powers of enforcement, but in relation to state obligations, rather than those of employees. In 'Managerial Accountability: What Impact on International Organisations' Autonomy?' (Wouters, et al., 2010), the authors develop the concept of IGO autonomy beyond that of agents for nation states and consider them increasingly to be distinct normative units in light of their independent legal personality. While they fall short of assessing the jurisdiction of oversight offices, they do proceed to discuss the internal legal systems in addressing major scandals within the UN and the EU.

Other texts examine accountability to member states governments (for instance, Stiglitz, 2003) or alternatively to external parties for acts committed by the IGO in the context of peacekeeping (see, for instance, Odello, 2010; Reinisch, 2001). These works omit any discussion of the internal policing function, either in terms of it demanding accountability from others, or being accountable itself. While the topic is not entirely unrelated to the oversight office (as peacekeepers often fall under its jurisdiction) such texts are more useful in understanding IGO accountability more generally, and not as it relates to internal policing. Although Hoffmann and Mégret (2005) briefly consider the role of the internal oversight office as an internal control mechanism, their focus is also on the role of external accountability with particular regards to human rights.

In a report on 'Accountability in the United Nations' (Andersen & Sending, 2011), the authors look specifically at internal accountability and describe a number of the accountability bodies operating across the UN, including OIOS. They discuss the political influences on accountability, using interviews with internal staff and member state delegates, and this thesis has been able to draw on some of their research.

In addition to academic texts, direct analysis and criticism is also undertaken directly by member states of IGOs, and in particular those who are significant net contributors and thus take great interest in accountability. The website of the US Government Accountability Office (GAO) stands out as offering a wealth of information and reports pertaining to the effectiveness of the UN's oversight mechanisms, although clearly these must be considered in the light of the domestic audience for whom they were written.

As with policing, this thesis applies the topic of accountability to the context of the IGO. Also like policing, the subject of accountability in general is covered by authors too numerous to elaborate on here. While the various academic, UN and government texts on accountability are valuable in their own right, none look at accountability of oversight from the perspective of policing. In this regard, specific mention must be made of the report of the Independent Commission on Policing in Northern Ireland ('the Patten Report', 1999), whose proposals on policing accountability have contributed to the development of policing accountability frameworks. Reference is also made to Stenning's views on policing accountability (2000). (Stenning's work appears to have been influential in the compilation of the Patten report, having been cited in it and having previously collaborated on other research with one of the Patten co-authors, Clifford Shearing.) Stenning's work is particularly helpful in identifying the accountability mechanisms applicable to private sector policing, and these help to delineate policing and policing accountability of the IGO and corporate sectors. In considering texts on accountability more generally, Romzeck and Dubnick (2000) discuss and provide definitions of accountability that can be applied to all sectors. Of particular relevance is their assertion that accountability structures can exist in any environment, and is not necessarily congruous with the view that accountability is commensurate with democracy. This is especially pertinent in the IGO where this thesis notes that internal policing is not based on democratic policing principles.

Contribution to the Literature

Overall, the body of literature on internal oversight investigations is embryonic and the research is often only indirectly relevant to the topic in hand. Of the research that does exist, much of it is descriptive, and there is only a microscopic body of analytical study in the field. According to Reiner (2010) the academic study of policing itself is only about fifty years old and it is therefore to be expected that the body of research in the niche IGO sector will be smaller than that on state or private sector policing. Things may of course change after the next Oil for Food scandal.

In the meantime, this thesis can make a small contribution towards addressing these imbalances. It attempts to do this by describing the role of the oversight in depth, but rather than examining it in isolation, it is assessed in the context of the broader organisation in which it exists. In identifying characteristics that are shared with nation states, the thesis provides a conceptual view of the IGO as a sovereign actor in the conduct of its own affairs. This perspective allows a broad analysis of the holistic policing function of the oversight office and an examination of its responsibilities for financial investigation in particular. Where other academics focus on the accountability of the IGO as a corporate body, this thesis concentrates on the office that is tasked with requiring accountability from the rest of the organisation. This thesis is also distinct from the reports of the UN's Joint Inspection Unit which, aside from being UN-centric, has examined accountability through a more piecemeal approach. By contrast, this thesis approaches the topic of oversight and accountability holistically from a policing viewpoint. In doing so, and by describing the nature of IGO policing, and proposing the application of policing accountability framework, this will facilitate the identification of accountability lacunae in other IGOs and allow further academic research to focus on the application of policing principles to the internal oversight office, whether with regards to legitimacy, best practices or even IGO governance more broadly.

In describing the role and practices of the internal policing function, it is first necessary to turn attention to the characteristics of the IGO, as the following chapter now examines.

Chapter 4 – Intergovernmental Organisations

Globalisation is bringing an increase in both the number[14] and importance of International Governmental Organisations (IGOs). Although they have been in existence since the 19th Century, IGOs came to worldwide public prominence with the formation of the United Nations in the period following the Second World War.

This chapter introduces the IGO and proceeds to describe the two organisations that are studied in this thesis: the UN and the OSCE. These organisations attempt to improve governance among member states, and should therefore seek to govern themselves appropriately. The role of the internal oversight office as one component of internal governance is introduced, together with its investigation function. One of the primary aims of this thesis is to identify the extent to which this function is a policing one, and this chapter examines why an internal policing function is needed, and proceeds to examine definitions of policing. In assessing the importance of having a policing role, the chapter also describes the sovereignty enjoyed by the IGO as a diplomatic organisation, which gives it characteristics comparable with those of a nation state as regards the administration of its internal affairs. This inviolability prevents external interference in the policing of misconduct within the organisation. The chapter also seeks to identify the staff population that would be policed within the IGO, and notes the challenges of policing differing cultural values through its intrinsically multi-cultural populations. The last part of the chapter looks at the legal system under which the policing function and staff are all subject to.

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IGOs are bodies composed of sovereign states. The UN's International Law Commission ('ILC') (2009, p. 20)[15] define an International Organisation in Article 2(a) as "an organization established by treaty or other instrument governed by international law and possessing its own international legal personality." The state

[14] The recent proliferation of IGOs is due in part to the reluctance to close down those IGOs which hold little relevance. The recent closure of The Western European Union and its parallel body, European Security and Defence Assembly, with a combined budget and staff of under €20m and 100 employees, was a diplomatic rarity and the trend is for more, rather than fewer IGOs (The Economist, 2010).

[15] The ILC is a subsidiary organ of the UN General Assembly entrusted with the codification of international law, pursuant to Article 13(1)(a) of the UN Charter.

parties to such treaties set the strategic direction of the IGO, usually through the medium of a governing board, such as the UN General Assembly.

The UN itself was the successor of the League of Nations, established in 1919 as the first permanent international security organisation. Although the UN is perhaps the most ubiquitous IGO, it is far from the only one. Other smaller IGOs were established as far back as the 19th century, such as the International Telecommunication Union, which has since been integrated as a specialised agency in the UN system. Most other IGOs, were only established after the Second World War. The number of IGOs has since proliferated and comprises various specialised agencies of the UN but also a number of other organisations. They may have a variety of differing mandates; some economic, others relating to peace and security; and others cultural or scientific, for example. IGOs may be global (e.g. the UN and the World Bank), regional (the OSCE, NATO and the African Union), or other groupings comprising any number of countries [16]. The term IGO should not be confused with non-governmental organisations (NGOs), which are often civil society or charity groups, although they frequently work in partnership with IGOs.

This essay will focus on two IGOs in particular, the UN and the Organization for Security and Cooperation in Europe (OSCE).

The UN needs little introduction, being the pre-eminent international organisation, comprising 193 member states, i.e. almost every internationally recognised sovereign state in the world[17]. It was founded in 1945 and has a wide mandate comprising security and economic issues, peacekeeping, peace building, conflict prevention and humanitarian assistance. It is known for establishing internationally backed peacekeeping missions to end conflicts and transition missions to help post-conflict countries re-establish governance. The UN is supported by a multitude of other autonomous agencies, e.g. the International Atomic Energy Agency (IAEA), the UN Development Programme (UNDP), the UN Children's Fund (UNICEF), etc. This essay will focus on the UN itself, sometimes referred to as the UN Secretariat. It has

[16] For instance, the International Pacific Halibut Commission comprises just two member states: the United States and Canada. There are many similarly small and/or esoteric IGOs.
[17] The Vatican is one of the main longstanding exceptions.

approximately 44,000 staff and an annual budget of over $2.5 billion[18]. The majority of matters are debated between the member states through the General Assembly (GA), which acts as a parliamentary style body to the organisation composed of member state delegates and decides matters by a majority vote[19]. In addition, the UN has other decision-making bodies such as the Economic and Social Council and the Security Council for addressing specific issues. The Secretary-General is the Chief Administrative Officer of the UN.

The OSCE is the world's largest regional security organisation, with 56 participating states[20] throughout Europe, North America and the former Soviet Union 'from Vancouver to Vladivostok'. It provides a forum for political negotiations among its member states, particularly in the fields of conflict prevention, crisis management and post-conflict rehabilitation. The OSCE began life as a conference in 1975 aimed at overcoming cold war rivalries but in 1990 became a permanent organisation[21] which now focuses on enhancing security, civil society and the rule of law in its mission areas across developing and post-conflict countries in Eastern Europe and Central Asia. Although it focuses primarily on soft security, it also engages military observers and police assistance teams. The OSCE has a staff of almost 3,000 and an annual budget of approximately $150 million. Heads of State and Foreign Ministers set the strategic direction of the OSCE through occasional summits and annual ministerial councils respectively. On a more routine basis, delegates from member states primarily discuss issues in a forum called the Permanent Council (PC), which acts as a parliamentary style chamber[22] similar to the UN General Assembly. Unlike the UN however, all PC decisions must be agreed by the full consensus of all participating

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[18] The budget for the two year period 2012-2013 is $5.15 billion.

[19] The General Assembly requires a two-thirds majority for agreeing on particularly important issues relating to such matters as security and budgetary arrangements, but many other issues are decided on a simple majority.

[20] In 2012, Mongolia submitted an application to be accepted as the 57th member state.

[21] The fact that the OSCE arose from a conference distinguishes the OSCE in that it has never progressed to being a formal organisation with its own legal personality. However, the ILC specifically had the OSCE in mind when, in defining an IGO, they noted that the organisation can be considered as such by virtue of the practices adopted by its state parties. Indeed, the OSCE may be said to enjoy *de-facto* legal personality, being recognised for instance in the UK International Organisations Act 2005 and the 157th Federal Law (amendment) on the Status of OSCE institutions in Austria which hosts the OSCE Secretariat. It is also listed as an IGO in the list of observer organisations to the UN. Further, legal opinion confirms that the OSCE can be considered as an IGO through past practice by the principle of *'venire contra factum proprium'* (Stribis, 2011).

[22] The OSCE also has a separate Parliamentary Assembly (PA) comprised of parliamentarians from participating states. However, the PA is a separate institution and while it may make recommendations, it has no binding authority over the OSCE Secretariat.

states. The OSCE also has a Secretary General who has a similar role to his UN counterpart as the Chief Administrative Officer.

Thus, the two organisations share certain organisational aims and structures. Indeed, in Kosovo the OSCE is an integral part of the larger UN mission and has the lead role in institution and democracy building. Separately, the former OSCE Mission to Georgia supported the United Nations conflict settlement efforts in Abkhazia. Co-operation between the two bodies also continues at a working level on a routine basis.

Governance and Accountability

The UN, OSCE, and the majority of other IGOs seek to promote good governance amongst their member states. This may be achieved through a variety of means aimed at enhancing security, including democracy, rule of law, and sound economic management. One of the ways through which IGOs are considered authoritative is by being experts in their field (Barnett & Finnemore, 2004)[23]. In order to maintain this authority and project credibility, the organisations need to ensure that they too are managed effectively and reflect the values they seek to promote elsewhere. This may be achieved by the application of effective corporate governance, a principle that has acquired considerable prominence in recent years among a range of organisations in both the public and private sectors. Corporate conduct is reflected in the ethics and behaviour of an organisation's employees and increasing numbers of employers now have an internal compliance or investigation function. Whether initiated voluntarily (many firms engage investigators to protect their physical and intellectual assets), under duress (Siemens, a multinational industrial manufacturer, escaped greater sanctions for corrupt activity only by instituting a rigorous internal compliance regime), or by law (UK financial institutions are required to have money laundering reporting officers), internal policing of corporate behaviour has become widespread. IGOs too have been subject to increased scrutiny in the area of corporate governance, and the Oil for Food scandal epitomises a breakdown in controls at the UN.

[23] The authors focus on the authority and autonomy of IGOs by virtue of their bureaucratic underpinnings and consider that IGOs enjoy not only rational-legal authority through this characteristic, but are also conferred with delegated authority (which is expanded on in this thesis) as well as expert authority and moral authority.

This thesis proceeds to examine one of the tools used to implement good governance in the IGO: that of the internal investigation function. Most IGOs now have the capacity to conduct internal misconduct investigations. Often, this is devolved to the department whose primary function is internal audit, which often pre-dates the existence of internal investigation. These departments are often called internal oversight offices, or more specifically, the Office of Internal Oversight Services (OIOS) in the UN or the Office of Internal Oversight (OIO) in the OSCE. Other IGOs have similar bodies, and may also be called Offices of the Inspector General, or (particularly amongst the international development banks) Offices of Institutional Integrity, for example. For the purposes of this thesis they will be termed generically as internal oversight offices.

A key but increasingly indistinct difference between the investigation functions of IGOs such as the UN and OSCE that have a security and/or human rights focus as opposed to the development banks with their economic focus is on the emphasis of the investigations conducted. Internal oversight began as a function to examine internal matters but its remit also encompasses investigations into matters that affect the organisation from outside (e.g. fraud by suppliers). In contrast, the offices of the development banks are primarily aimed at addressing external fraud, e.g. in development projects where donated money has been misused[24]. However, corruption frequently involves wrongdoing by both internal and external parties and can therefore require a concurrent investigation into the roles of IGO employees and third parties. Additionally, even where internal parties are not culpable, they are often involved in administering projects where fraud occurs, which makes them witnesses to any such offences. Thus the boundaries between internal and external investigations can overlap. While this thesis emphasises the internal investigation role, due cognisance is also given to external investigations given that the two often cannot be completely separated.

OIOS was the first multi-functional internal oversight office in the IGO community and was established in 1994 with a staff of auditors, investigators and management/evaluation specialists. Its counterpart in the OSCE was established in

[24] The World Bank also maintains a separate Ethics and Business Conduct department that addresses internal staff misconduct as part of its duties. Most other IGOs have a single investigation unit covering all forms of misconduct.

2000 and although it was mandated to conduct investigations from the outset, it was not until 2008 that a dedicated investigator position was added.

Internal oversight offices are distinct from external auditors whose role is to give assurance on the accuracy of an organisation's financial accounts. Although internal oversight comprises audit and evaluation functions of its own, it exists primarily to assist executive heads in their administration of the organisation. Another body that needs mentioning is the Joint Inspection Unit (JIU) of the United Nations, which is mandated to look at agencies in the UN system through the mediums of evaluations, inspections and investigations. It too differs from internal oversight, in that the JIU is an independent external body, rather than an internal one, and decides its own priorities and which UN agencies or subject matters to examine. Inevitably there is some crossover between the work of the JIU and some internal oversight bodies, but the JIU also has the ability to conducts reviews of the UN internal oversight function, and has issued a number of recent reports in this regard. The JIU has no formal role vis-à-vis the OSCE, which has no external oversight body.

Internal oversight offices form part of the IGO governance structure that in turn is inseparable from the topic of accountability. Good governance relies on having measures in place whereby those responsible for a task can be held to account for its performance. In a report on the UN accountability framework, the UN Secretary-General (2010) considered that there is essentially a covenant whereby the UN secretariat is obliged to deliver the results specified by the member states. In its role as a component of the accountability system, internal oversight is able to demand accountability from others in providing assurance that tasks ultimately carried out on behalf of member states are properly conducted in accordance with rules, procedures and ethical standards. OIOS state that their aim is to increase accountability in the UN by ensuring that "the Organization has an effective and transparent system of accountability in place" (UN OIOS, 2012). The OSCE internal oversight office similarly aims to improve "the performance and accountability of the OSCE" (OSCE Office of Internal Oversight, 2012). This thesis will in turn explore how the internal oversight office, and the investigation function in particular, is in turn accountable for its own actions. Before doing so, it is necessary to define what is meant by accountability.

It is certainly true that "There are almost as many definitions of accountability as there are articles on the subject, if not more" (Black, 2008, p. 23). This is evident even within the UN system, where a report on accountability frameworks (Joint Inspection Unit, 2011b) shows that almost every UN agency has formulated its own terminology. Nevertheless, it would be remiss to ignore the definition submitted by the world's most senior international civil servant and current UN Secretary General, Ban Ki Moon, which draws on the definitions in use by other UN entities:

> "Accountability is the obligation of the Organization and its staff members to be answerable for delivering specific results that have been determined through a clear and transparent assignment of responsibility, subject to the availability of resources and the constraints posed by external factors. Accountability includes achieving objectives and results in response to mandates, fair and accurate reporting on performance results, stewardship of funds, and all aspects of performance in accordance with regulations, rules and standards, including a clearly defined system of rewards and sanctions." (UN Secretary-General, 2010, p. 5).

However, this definition – by referring to resource limitations and external constraints – appears to be as much about sending a political message to member states as it is an attempt at providing an objective definition. Tellingly, the other definitions that Mr. Moon studied in coming to his own version make no mention of resource constraints[25]. Indeed, the dissatisfaction with this definition was also made clear by the General Assembly when, in taking note of the Secretary-General's report, instead decided on a different definition (UN General Assembly, 2010, pp. 2-3):

> "Accountability is the obligation of the Secretariat and its staff members to be answerable for all decisions made and actions taken by them, and to be responsible for honouring their commitments, *without qualification or exception.*
>
> Accountability includes achieving objectives and high-quality results in a timely and cost-effective manner, in fully implementing and delivering on all mandates to the Secretariat approved by the United Nations intergovernmental bodies and other subsidiary organs established by them in compliance with all resolutions, regulations, rules and ethical standards; truthful, objective, accurate and timely reporting on performance results; responsible stewardship of funds and resources; all aspects of performance, including a clearly defined system of rewards and sanctions; and with due recognition to the important role of the oversight bodies and in full compliance with accepted recommendations." *(Emphasis added).*

[25] Reference is made in footnote 2 of the report to definitions used in three other UN agencies which were considered by the UN Secretary-General in formulating his own description.

The latter part of this definition is very specific in being geared towards the expectations of UN member states and may be viewed as a political counterbalance to the views of the Secretary-General. The first part of the definition, however, is more consistent with the inherently more objective view of the JIU (1995, p. 3), who say that accountability,

> "essentially means responsibility to someone for one's actions taken: in the United Nations system this refers to the responsibility of international civil servants to executive heads and to governing bodies, and their responsibility in turn to Member States and publics."

This definition also begins to identify some of the stakeholders in the IGO system, i.e. managers, member states and their populations.

This view is consistent with that given by Stenning (1995a, p. 5), who in describing accountability in the context of criminal justice, reduces the concept of accountability to its fundamentals when he states that it "is about no more nor less than requirements to give accounts". He proceeds to note that this involves both formal and informal rules and processes of who accounts to who, how, when, etc. Many of the multiple variations of the definition of accountability revolve around the same basic theme but a more structured definition is proffered by Romzeck and Dubnick (2000, p. 382) who describe accountability as "a relationship in which an individual or agency is held to answer for performance that involves some delegation of authority to act."

This latter definition is considered to be a sufficiently comprehensive and neutral definition for the purposes of assessing accountability within the IGO system, in respect of that which the oversight office demands, and which itself should deliver.

Accountability in the IGO context is directly affected by its autonomous features, which therefore merit separate study before proceeding to examine the nature and function of internal oversight offices in more detail. These characteristics are also an important consideration in the accountability relationships of the IGO as a whole and provide the context for understanding the nature of the oversight office itself and the authority it exercises over the staff population.

Autonomous Characteristics

IGOs are established to conduct tasks on behalf of member states. In many instances, these states surrender powers to IGOs to perform specific tasks, and in so doing, may subject themselves to an IGO's jurisdiction to the extent that they agree to be bound by its treaties and decisions. In the OSCE, decisions affecting participating states are said to be politically binding only. Stronger legally binding commitments are in evidence in the EU, where member states agree to subject themselves to European law (and the surrender of monetary policy for those states in the single European currency). More widespread are multi-lateral treaties such as the UN Convention against Corruption, where member states voluntarily agree to implement their own laws in accordance with treaty principles. In each case, the state party voluntarily relinquishes a certain amount of power and can in theory opt out of the IGO and reclaim any powers surrendered, even if this can sometimes be difficult in practice. IGOs can also conduct tasks on behalf of member states on an ad-hoc basis. For example, states may place troops under the strategic command of the UN or NATO.

Some authors consider that IGOs act as agents of member states (see for instance Barnett & Finnemore, 1999; Sarooshi, 2005). Others such as Wouters, Hachez, & Scmitt (2010) take the agent-principal model a step further in considering that IGOs should be considered as distinct autonomous units given their own legal personality. They consider that the diplomatic privileges and immunities granted to IGOs ensure their independence. The UN enjoys immunities agreed by the UN General Assembly (1946) under the Convention on Privileges and Immunities. In particular, section 3 of the Convention states that the premises and property of the UN are inviolable wherever located and are immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action. The OSCE also enjoys privileges and immunities, and while it is not covered by the UN Convention, its extra-territorial status is negotiated bilaterally with individual states where it is based[26]. These privileges and immunities are central to understanding the autonomous nature of the IGO, particularly with regards to its own internal administration.

[26] The OSCE has been unable to negotiate full diplomatic status for its office in Uzbekistan.

Firstly, the inviolability of IGO premises effectively puts them beyond the legal reach of the host country in which they are physically based. Some IGOs may have only one office (e.g. OPEC in Vienna) while others may have offices in multiple countries. In effect, the premises on which the IGO is situated, even when in multiple locations, can be considered as its geographic territory.

For instance, visitors on a guided tour to the Vienna International Centre (a large complex which houses one of the United Nations' headquarters and other related agencies such as the IAEA) are told that they are no longer on Austrian soil and technically need their passports to enter[27]. Similarly, a recent visit to the UN headquarters in New York was described in the Daily Telegraph (Gimlette, 2012) thus:

> "It's strange to think that, among the bristling towers of Manhattan, there exists a tiny, independent territory. It covers only 18 acres and has no inhabitants; American rules don't apply here; it has its own tax system, its own stamps, and its own police force. It even has its own army, which it borrows from everyone else. It is, of course, the United Nations Headquarters."

This territorial sovereignty is a key feature that IGOs shares with a nation states. In his seminal essay, Leviathan, Hobbes (1651) laid the foundations of nation state theory in referring to the need for the members of a community to surrender their combined strength to a sovereign power for the common good. The sociologist Max Weber (1948, p. 78) builds on this when he defines a state as "a human community that (successfully) claims the monopoly of the legitimate use of physical force over a given territory". While violent force is rarely used in an IGO, its ability to take physical measures to restrict entry to its premises, for instance, is within the authority of the security personnel[28]. In some IGO's, including the UN, security guards are authorised to carry firearms on their premises, even where the carrying of such weapons would not otherwise be allowed in the host country. In the UN, protocols for the use of force, including detention and the use of deadly force, are described in a confidential internal policy directive for security officials (UN Department of Safety and Security, 2009). Notwithstanding that the UN and various other IGOs also require their officials to

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[27] This is a technical requirement rather than one that is enforced. Usually, a valid official identity card will suffice to get a place on a tour, and there are no passport checks when 'returning' to Austria.

[28] As IGOs are closed to those without authority to enter, this also prevents their premises from being considered as 'mass private property' (Stenning, 2009) to which members of the public are encouraged to frequent e.g. shopping malls.

abide by host country laws, the mere ability to envision and regulate such force on its premises relies on a system of territorial integrity and the exclusion of external actors from internal affairs as embodied in the Westphalian system of nation state sovereignty. From this perspective, the internal governance of the IGO and its premises shares important characteristics with those of states.

A more contemporary exposition on the nature of nation states can be found in the 1933 Montevideo Convention on the Rights and Duties of States[29]. This convention included the criteria for what the signatories saw as necessary for statehood. Article 1 of the convention stipulated that states should possess four key qualifications, and these can be compared with the IGO:

i. A *permanent population.* An IGO does not have a permanent population *per se* but it does have a transient one in the form of the staff who have the right to enter and work on its premises.
ii. A *defined territory.* IGOs have a defined territory insofar as they have their own inviolable physical premises, as mentioned above.
iii. *Government.* IGOs are 'governed' by political representatives meeting in the equivalent of parliamentary structures (e.g. UN General Assembly, OSCE Permanent Council). These are supported by the executive structures (the respective IGO Secretariats) staffed by international civil servants. The UN General Assembly even elects a president, although this is largely an administrative role. The OSCE has a Chairperson-in-Office (CiO) who sets the strategic agenda of the OSCE for the coming year. The CiO is the foreign minister of the member states that holds the chair on an annual rotating basis[30].
iv. *Capacity to enter into relations with the other states.* IGOs have the capacity to enter into relations with actual states as host country agreements with the IGO testify (these commonly refer to privileges and immunities as well as safety and security matters). Article 1, Section 1 of the UN Convention on Privileges and Immunities also affirms the UN's legal personality and provides for it to enter into contracts with other parties without distinguishing between government and commercial entities. The OSCE, with *de-facto* legal

[29] The Montevideo Convention was signed by 19 of the 20 participatory states.
[30] This has similarities with the biannual rotating presidency of the EU.

> personality also routinely enters into contracts with other states and international organisations.

Thus, according to these criteria, IGOs exhibit many features of the modern state even if they do not technically fulfil all the criteria, most notably with regards to the absence of a permanent population. Indeed, the extent to which an IGO may be compared to a sovereign state is subject to a diversity of opinion and Hurd (2011, p. 10) notes that international organisations are "fraught with conceptual and practical problems" being legally subordinate to states while simultaneously regulating their behaviour. Mathiason (2008, p. 128) considers that the international public sector lacks many attributes of state power, citing its lack of army or its inability to collect taxes (though, as already mentioned, some IGOs do retain the right to force, and the UN collects the equivalent of taxes in the form of 'staff assessment'[31]). Lemoine (1995) recognises that IGOs are autonomous actors with their own personality and considers that while capable of influencing world affairs, they still perhaps fall short of being compared with supranational authorities or components of world government. Conversely, others such as Thomas (2001) take a more robust view and consider that IGOs are an 'international branch' of government.

Such opinions are more concerned with the IGO's external powers and relations with states, i.e. the fourth criterion of the Montevideo Convention. While it is not the intention of this thesis to classify an IGO as a nation state, it is important to highlight the parallels between the administration of the IGO and the governance of a state, and for these purposes, the Convention's first three criteria are particularly relevant. The IGO's administrative autonomy is a key consideration in assessing the mandate, independence and accountability of the internal oversight office.

Sovereignty and Need for Internal Policing

Consistent with Weber's consideration of state sovereignty being linked to the exercise of force, Morrison (1985, cited Mawby, 1990, p. 75) considers that, "Nothing establishes sovereignty over an area more clearly than effective policing of it". Given that no national police agency has jurisdiction to exercise policing functions within an

[31] This is an amount that is taken from the gross salary of the employee and offset against the contributions of the employee's member state.

IGO, policing becomes a matter for those who enjoy the necessary authority and jurisdiction, and it follows that it must become an internal matter for the IGO.

It is however necessary to define what is meant by policing. Rawlings (2008, p. 47) defines it as "the maintenance of order, the control of disorder, the prevention of crime and the detection of offenders". Bayley and Shearing (1996, p. 586) see policing as "all explicit efforts to create visible agents of crime control, whether by government or nongovernmental institutions" while Reiner (2010, p. 8) sees policing as "an aspect of social control processes which occurs universally in all social situations in which there is at least the potential for conflict, deviance or disorder." Each of these definitions permits the investigation of breaches of regulations to be considered as policing, but investigation is not the only policing function within the IGO.

While Gimlette (see page 42) spoke of the UN headquarters in New York having its own police force, he was in all likelihood referring to the uniformed security branch of the IGO. This may appear closer to the traditional view of 'the police' who undertake patrol and safety duties and the prosecution of more basic offences, while leaving specialist investigation duties to a dedicated detective branch[32]. The work they undertake is indeed policing, but while there is an element of plural policing in most IGOs, only one body emerges as a dedicated policing function with regards to financial crime, i.e. the internal oversight office. This body assumes primary in addressing misconduct within the organisation.

The need for internal policing can be seen not only in the high profile scandals that have afflicted various UN agencies, but also in the multitude of more mundane cases of misconduct that do not make headlines. For instance, in 2010, the UN received almost 600 allegations of misconduct, of which 180 were fully investigated by its internal oversight office, OIOS (Joint Inspection Unit, 2011a). This is in addition to the cases investigated by others – in the UN, cases of less serious misconduct are classed as 'Category 2' offences, and these include financial matters such as minor theft or fraud and also a myriad of other behaviour including harassment, discrimination, abusive behaviour, traffic violations and basic mismanagement. The security department and/or others may investigate such cases where OIOS does not do

[32] The responsibilities of the security branch can extend to other policing type duties including for example the use of plain clothes close protection officers to protect high ranking dignitaries.

so. In practice, there may be some overlap (Joint Inspection Unit, 2000), but while OIOS often investigates 'category 2' misconduct, it concentrates its resources on the more serious 'category 1' cases which include major fraud, corruption and other offences. OIOS is mandated by the General Assembly (2000, p. 1) to be the "principal oversight organ" of the Organization, and it is the investigation function of this office, and its peers in other IGOs that are examined in this thesis.

The absence of policing from outside the IGO does not mean that states cannot attempt to influence IGOs' internal affairs where misconduct occurs. States may resort to measures such as speaking out publicly, using their voting behaviour or withholding financial contributions to ensure good governance. A recent case was the decision of the German government to suspend disbursements of over 200m euro to The Global Fund[33] following allegations of corruption in the Fund's projects. There is also the case of Kamal Idris, the former Director General of the World Intellectual Property Organization (WIPO) in 2007. Following allegations that Mr Idris had fraudulently falsified his date of birth for employment benefits, the government of the Swiss Federation (2007) took the unusual step of stating that WIPO had lost all credibility and emphasised the need for good management and integrity of IGOs located on its territory. This rebuke went beyond the normal bounds of diplomatic niceties, but even as the host country, Switzerland was unable to intervene directly in the WIPO's internal affairs and was reliant upon it to conduct its own internal investigation[34] [35].

Such cases illustrate the necessity of IGOs to be alert to the impact of fraud perpetrated upon it both from outside the organisation (e.g. by suppliers or project partners) and within (e.g. by employees). Internal oversight offices may investigate both types of cases, but almost all investigations will examine the involvement of IGO staff, whether as suspects, witnesses or complainants. For example, supplier fraud will involve interviews with procurement staff to understand the supplier history and reasons for selection. These employees form part of the IGO staff that comes under

[33] Although not an IGO *per se*, The Global Fund is a public-private partnership that is funded primarily by governments and enjoys privileges and immunities akin to other IGOs.
[34] Both WIPO and the Global Fund have active internal oversight offices. The WIPO oversight office made inquiries into the Idris case and The Global Fund investigation office routinely examines allegations of fraud and corruption involving its projects.
[35] WIPO has also been recently criticised by US lawmakers for perceived violations of export sanctions to Iran, although the US government appears to accept that wrongdoing does not appear to have taken place (Rogin, 2012). However, the inability of lawmakers to compel WIPO staff to testify to a US congressional committee is further indicative of the sovereignty enjoyed by IGOs.

the authority of the internal oversight function. Understanding the nature of the staff population is therefore an important consideration in understanding the nature and challenges of internal policing.

Staff Population

Despite not being 'residents' per se in the sense of that intended by the Montevideo convention, the staff of the IGO are the only people who are routinely permitted to enter and work on its premises, and comprise its population. These international civil servants, carry out the tasks mandated to them by member states, and administer the organisation. Indeed, they are unique in forming both the population of the IGO, and also its executive branch of government, executing the functions assigned by the legislature.

International civil servants frequently enjoy 'functional' privileges and immunities[36] in respect of actions committed in the course of their duties that cannot be policed by any single national jurisdiction[37]. Only the IGO itself has the ability to police its own staff during the course of their duties or while on IGO premises. As Silver (2005, p. 10) observes, "Some modern nations have been police states; all, however, are policed societies". From a policing perspective, the IGO is one such society[38].

Much like citizenship or public service rituals in some states, IGO staff may be required to pledge allegiance to the IGO itself. This includes a requirement prohibiting them from taking instructions from any government (as per Article 100 of the UN Charter (1945) and OSCE Staff Regulation 2.01(b)). As the former British delegate to the League of Nations (precursor to the UN), Lord Balfour, noted, "members of the secretariat once appointed are no longer the servants of the country of

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[36] Privileges and immunities do not always apply to locally recruited support staff.

[37] The employees do not include the delegates of member states who are generally not subject to the rules and regulations of the organisation, but who may however enjoy some of its privileges and immunities in addition to those they enjoy as a diplomat representing their home country.

[38] While a sociological examination of the IGO society is outside the scope of this thesis, the IGO may be considered within Tonnies 'gesellschaft' context of an organisation where the community comes together from differing backgrounds in pursuance of the overall goals of the organisation, albeit an organisation with nation state characteristics (1887). Also applicable is Parsons's definition (1956, p. 63) of an organisation, i.e. "a social system oriented to the attainment of a relatively specific type of goal, which contributes to a major function of a more comprehensive system, usually the society'. Further research into the sociological and structural definitions of society can be seen in the texts of Durkheim, Spencer, Dahrendorf and others.

which they are citizen, but become for the time being the servants only of the League of Nations." (League of Nations, 1920)[39].

Employment in an IGO is usually spread across nationals of its member states, and particularly in those IGOs with geographically diverse member states, the staff populations are intrinsically multi-cultural and are analogous to a microcosm of an ethnically diverse society.

While the staff population should ideally reflect the nationalities of its member states, in practice – as with other demographically diverse nation states – societies are often dominated by particular ethnic groups or alliances. The World Bank, for instance refers to itself as "[a] true global community, [whose] staff comprises more than 9,000 people from 165 countries." While it is indeed diverse, it is not necessarily representative. For example, North America represents just 5% of the world population, yet it represented 21% of World Bank staff in 2010 (World Bank, 2010). Whether as a result of education, global economics, voting power or the fact that the headquarters are based in Washington DC, the fact remains that it is a global institution dominated by western economic powers, and associated values. Indeed, the World Bank and IMF have always elected a president from the USA or Europe respectively. This issue has gained prominence with the recent appointments to these roles. In the case of the IMF, the Australian and South African governments are reported to have said that the current system undermines legitimacy (BBC, 2011)[40]. Subsequently, during the recent recruitment exercise for a new World Bank chief, three former senior staff members (Bourguignon, et al., 2012) wrote, "To say it is merit-based, and to choose an American repeatedly, shows scant respect to the citizens of other countries."

At the UN, the Secretary-General has been elected on a more equitable geographic basis (although the real geopolitical power in the UN belongs to the permanent members of the Security Council). With regards to its staff, Article 101.3 of the UN Charter (United Nations, 1945, p. 18) states:

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[39] The extent to which these rules are (or should be) adhered to is a matter for separate debate, and is outside the scope of this thesis.

[40] Even a departing senior IMF official expressed similar views, referring to "the fundamental illegitimacy of the selection process" (BBC, 2012b).

> "The paramount consideration in the employment of the staff [...] shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible."

While paying heed to the principle of geographic distribution, the reference to high standards of efficiency and competence can also have the effect of favouring developed countries where access to education, training and employment is easier. Most professional posts in the UN now require candidates to have a minimum of a master's degree. While this may filter out those unable to demonstrate high educational standards, it also discriminates against those who may be prevented from achieving advanced education due to costs, social structures or lack of facilities.

The UN has been reticent to publish statistics of national staff representation (Lee, 2007), but the latest set of publicly available statistics (UN Secretary-General, 2006a) show that the United States has a higher number of staff among internationally recruited professional posts[41] than any other country (and that they outnumber Russian employees by almost three to one, for example).

In the OSCE, despite being a forum for European security, the number of employees from the US is again higher than that of any other member state. In fact, the number of Americans exceeds even the number of employees from Austria where the organisation is headquartered, and where one would expect to find a large number of locally employed staff. In addition, four of the five incumbents in the role of Secretary General have come from Western European countries, with the fifth from Central/Eastern Europe (Slovakia).

These differing backgrounds may present a challenge for the implementation and enforcement of values and rules to which the staff society – and in particular amongst that element of the population from non-western backgrounds – are expected to adhere.

[41] The figures for non-professional 'general service' posts, which are recruited locally, reflect a bias in favour of countries where the UN maintains field missions (e.g. over 7% of UN staff came from the former combined state of Serbia and Montenegro, largely due to the size of the UN Mission in Kosovo at the time).

Laws and Values

Regardless of ethnic or cultural background, international civil servants are expected to maintain certain standards of conduct, as enshrined in the standards of conduct for the international civil service (International Civil Service Commission, 2001)[42]. While ethical standards are expected in all areas of behaviour, the main area for criminal conduct among international civil servants is fraud and corruption (Münch, 2006, p. 77).

Although international civil servants may like to think of themselves as professionals beyond ethical reproach, this has not always proved to be the case, with the UN oversight body alone having almost 600 complaints in 2010 (Joint Inspection Unit, 2011a). A former UN investigator (Montil, 2007) notes with irony, "It was disturbing for a lot of people because we were about 'catching crooks' and of course there are no crooks at the UN". The formation of the internal oversight office faced resistance within the UN Secretariat, being viewed by some with reluctance and suspicion (UN Office of Internal Oversight Services Investigations Division, 2005). Others resistant to the institution of an internal oversight function had tried to claim that it was difficult to implement because the UN was a special case due to its structure, complexity and inherent political nature (Joint Inspection Unit, 1993), an argument used in fact by many other IGOs worried about the impact of an investigation office (Conference of International Investigators, 2009). Despite these concerns, wrongdoing exists in the UN and other IGOs as it does elsewhere. Misconduct is not just the prerogative of junior staff either. Scandals have affected many top-level officials including the executive heads of a number of UN agencies including Kamal Idris for fraud (mentioned above) and Ruud Lubbers who faced harassment allegations at UNHCR. Even the former president of Interpol, Jackie Selebi, faced corruption charges during his time in office and was subsequently convicted in 2010, though this did not relate to his Interpol duties, while Dominique Strauss-Kahn famously resigned from the IMF following his arrest on sexual assault charges[43]. Only recently, four senior UN staff members were under investigation for misconduct (Ahlenius, 2010, p. 18).

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[42] While this applies primarily to UN organisations, OSCE Staff Regulation 2.01(a) also requires staff to "conduct themselves at all times in a manner befitting the status of an international civil servant".

[43] In 2008, while at the IMF, Strauss-Kahn faced allegations that he coerced a senior staff member into having an affair with him, though an independent investigation did not find evidence of misconduct.

However, while the views of some suggest that corruption and inefficiency are bywords for UN bureaucracy (see Sanjuan, 2005; Gardiner, 2011; Moynihan, 1978), such criticism predominately comes from particular geopolitical views i.e. American right wing and/or Congress representatives[44]. A recent external review of ethics within the UN strikes a more realistic tone. It noted that, "Unethical behaviour and corrupt practices on the part of a few continue to mar the work of United Nations system organizations" (Joint Inspection Unit, 2010a, p. 1). The Association of Certified Fraud Examiners (2012) estimate that every organisation loses on average 5% of its turnover to fraud, which suggests that financial misconduct is omnipresent and that IGOs are not significantly different from any other organisation in this respect.

Certainly, IGOs employ a diverse range of employees with wide-ranging work ethics, and the more strident critics sometimes fail to fully recognise the multicultural character of the IGOs. It is this diversity that can lead to differing expectations in the imposition and enforcement of rules.

IGOs have their own sets of administrative rules and regulations that define what employees should or should not do. These may well be different from the rules they encounter in their home countries. The rules are based on a number of documents, such as the UN Charter (1945)[45], which effectively form the 'constitution' of the IGO, and define its mission. Thereafter, the member states also set the strategic and political decisions of the IGO as well as the internal administrative rules by which the IGO is governed. In the UN, this is done through General Assembly resolutions[46]. These are passed through majority voting. In the OSCE, the equivalent framework is established through Permanent Council decisions, which require consensus across 56 participating states. Subordinate to these are the rules and instructions instituted from within the organisation's secretariat and promulgated under the authority of the respective Secretaries-General. Breaches of any of these rules are normally classed as misconduct, which is defined in UN staff rule 10.1 as potentially arising from a failure by a staff member to comply with their "obligations under the Charter of the United

[44] See also the reflections of the former UN Deputy-Secretary-General (Malloch-Brown, 2008) and the first Under-Secretary General of OIOS (Paschke, 1998)
[45] The development of the OSCE was more fragmented and relies on multiple documents.
[46] Other strategic decisions are taken through resolutions of the Security Council and other bodies, but these are outside the scope of this thesis.

Nations, the Staff Regulations and Rules or other relevant administrative issuances, or to observe the standards of conduct expected of an international civil servant." Similarly, OSCE Staff regulation 9.01 defines misconduct as "Non-compliance [...] with an obligation stipulated in the present Regulations, the Staff Rules, the OSCE Code of Conduct, or any other relevant administrative issuance..."

While the primary regulations are set by a vote of member states these rules are nevertheless often based on norms established by 'Western' democratic ideals. The references to human rights in the UN Charter, for instance, are seen as having been prompted by revulsion at the horrors of Nazism (Lemoine, 1995). The basis for these ethical standards may accordingly result in the stigmatisation of behaviour that goes beyond what would be prohibited in some member states. For example, the OSCE Code of Conduct prohibits trafficking in human beings. This is perfectly understandable, both in its own right, and also because the OSCE is committed to abolishing this practice. More draconian however is the fact that misconduct also includes:

> "an affiliation with any person who is suspected of being involved in any activity that violates national or international law or accepted human rights standards, or an affiliation with any person who could reasonably be suspected of engaging in the trafficking in human beings."

There are very few states that would proscribe mere affiliation with someone *suspected* of offences. Another example among both the UN and OSCE are the rules prohibiting staff members from sexual relations with anybody under the age of 18, regardless of the locally recognised age of consent (the mode average legally defined age worldwide is 16 (Avert, 2012)).

These regulatory differences also manifest themselves in relation to financial misconduct where the protection of their own financial interests is a more contemporary concern for IGO member states. Notably, the driving force for the establishment of oversight offices were those western countries that also happen to be the largest financial contributors (the US alone contributes over a fifth of the regular UN budget). This is to be expected in the financial institutions such as the World Bank and IMF (amongst others), which "are structured to weigh the views – and the votes – of rich countries over poor countries, despite the fact that both organizations

work primarily in the developing world" (Hale, 2008, p. 87). However, this applies to much of the rest of the IGO universe too. In the UN, developed countries were "more concerned about effective management, financial control, and clear objectives than many developing countries." (Karns & Mingst, 2004, p. 123). It is telling for instance that OIOS was formed in response to financial wrongdoing, rather than, for instance, sexual exploitation by UN peacekeepers. OIOS is foremost an internal management tool "whose institutional culture is rooted in financial and management accountability" (Hoffmann & Mégret, 2005, p. 60) and its mandate is clearly aimed at improving efficiency above all else. In one of its own publications in 2000, OIOS referred to the expectations of taxpayers, but did not mention human rights issues at all (Office of Internal Oversight Services, 2000). Internal financial governance is also the primary concern of OSCE oversight office's mandate (OSCE, 2000), which largely mirrors the provisions established in the UN (UN Secretary-General, 1994). Other IGOs including the World Bank and its regional counterparts are also explicit in stating these financial objectives. The EU's anti-fraud body, OLAF, for example, states that its aim is to "protect the financial interests of the European Union by combating fraud, corruption and any other illegal activities, including serious misconduct within the European Institutions." (OLAF, 2012).

Accordingly, financial probity can be seen as the primary moral value that member states seek from international civil servants. Even in this narrow area, this presents a challenge for enforcement, as illustrated by the rules adopted by many of the major IGOs regarding conflicts of interests, with the majority of IGOs considering that failing to declare such a conflict amounts to misconduct. However, the concept is widely misunderstood across much of the world, and particularly across less developed countries. A leaked report (The Economist, 2010), has shown for example that American officials have denigrated the Russian government for not even paying heed to the notion of a conflict of interests. Nevertheless, even senior American and European officials are also not blameless in this regard[47] and a misunderstanding of conflict of interests' rules can be pervasive. Indeed, the concept will be unfamiliar to a significant number of employees, particularly where it does not even give rise directly to any criminal offence. Certainly, it can be more difficult for staff coming

[47] Former World Bank President, Paul Wolfowitz, and former IMF Chief, Dominique Strauss-Kahn, provide comparative case studies for actual and perceived conflict of interests situations respectively.

from states where such rules are not commonly enacted to adapt to them within their employing organisation.

The JIU recognises that cultural differences will lead to ethical dilemmas when working internationally. Specifically it notes that "operating on an international scale, with the cultural differences that entails, can and does lead to ethical dilemmas" (Joint Inspection Unit, 2010a, p. 3). As a former Head of OIOS (Paschke, 1998) notes, the diversity of staff brings different ideas of what public service means, and shared values do not exist in such a diverse body as the UN. The UN Secretary-General is also mindful of such issues. In debating the need for modernising the internal justice system he gave cognisance to the "disparate legal traditions and diverse cultural and linguistic backgrounds" arising in the UN (UN Secretary-General, 2007a, p. 23). In a separate note, he stated that, "in order to reflect the multicultural nature of the Organization, representation of more than one legal system would be required." (UN Secretary-General, 2007b, p. 6).

Therefore, if the IGO wishes to enforce rules that are not universally understood, there is a moral responsibility to ensure that standards and expectations are clarified and understood by all employees. The UN for instance provides ethics training, and has introduced a dedicated ethics office that can be approached by all staff members for confidential advice. The OSCE also provides internal training on conflict of interests, using the definition proffered by the Organisation for Economic Co-operation and Development (OECD), a group of pro-Western economies supporting democratic ideals.

Given that the internal rules of the IGO are agreed on by democratic decision-making among the member states, an obvious question is how agreement on these rules is ever reached given the diverse national viewpoints represented, particularly in the OSCE where just one belligerent state could undermine the entire organisation's approach to internal governance. To answer this, it is only necessary to look at other treaties such as the United Nations Convention Against Corruption (UNCAC). Corruption, being intimately associated with conflict of interests (it is not possible to have the former without the latter) can be seen in terms of western values, yet over 160 of the world's nation states have either signed or ratified this treaty as even the most intransigent member states do not want to be seen publicly as tolerant of crime. Separately, a

number of countries not known for their respect of human rights or the rule of law for example, have recently reaffirmed their commitments to such principles, as can be seen in the agreed text of the Astana summit of the OSCE (OSCE, 2010). Moreover, such commitments are still open to differing cultural interpretations, and the weight afforded to them. As Lemoine (1995) points out, while human rights may be endorsed universally, they are seen as individual rights from a Western libertarian perspective, but are subordinated to the collective interest in some communist societies. Furthermore, while internal rules may reflect a western value system, many other member states have little incentive to oppose the imposition of western governance values within the IGO. Not only is this because doing so could carry a political cost (smaller states often follow the emerging consensus of the larger powers, e.g. US, Russia, EU, etc), but in addition there is little to gain by opposing rules upon the IGO which are unlikely to have a direct adverse impact on the delegates voting on the measures themselves.

In practice, therefore, the interpretation and enforcement of some rules may conflict with of the mores of a large number of employees. While this is potentially more problematic for the larger, global IGOs in particular, the impact ultimately depends very much on individual organisations' ethnic diversity, though (as illustrated earlier) this may also display a pro-western bias.

Further perpetuating this bias is the primary language of most IGOs, which is English. Former OIOS Under-Secretary-General, Karl Paschke (1998) considers that this influences many aspects of IGO administration and that this can result in following Anglo-Saxon ideas in the battle against corruption. He further notes that even the term 'accountability' does not translate precisely into French or Spanish, let alone the other official UN languages. As if to emphasise the point, the UN charter (1945, p. 2) and the US constitution also begin with the same language, "We the people(s) of the United [Nations/States]".

The western bias can also be seen in IGOs that do not cater to the western democratic audience. Even the African and Asian development banks have many non-regional member countries and retain English as a working language. This is also the case in some IGOs that contain few, if any, English-speaking member states. OPEC is one

such example, with only Nigeria being officially (but not indigenously) English speaking, but English nevertheless remains the official language of the organisation.

Legal System

Staff misconduct may not necessarily equate to criminal acts, let alone ethical failings, in all member states, as the preceding section illustrates. Even where criminal behaviour is established, it cannot readily be prosecuted in a national judicial system, which has no jurisdiction over the IGO. To allow prosecution, the IGO must voluntarily waive all necessary immunities and co-operate with local law enforcement. Even then, consideration must be given to the differing criminal codes that may apply given the potential cross-jurisdictional issues inherent in any organisation working across geographic boundaries. Furthermore, any criminal investigation relies on local law enforcement authorities that may not have sufficient capacity or even motivation to adopt such cases. Aside from logistical considerations, IGOs can be wary of the media coverage that could ensue from such a referral[48].

Consequently, referrals to national authorities are only considered in the most serious instances of criminal conduct. The UN has done this in a small number of cases, and in all of the UN's funds and programmes there have been 23 referrals (Joint Inspection Unit, 2011b) up to 2011. Such referrals have included some large-scale procurement frauds including those perpetrated by Sanjaya Bahel (who corruptly awarded over $100 million of UN contracts to his friends) and Jo Trustschler (who diverted UN funds of $4.3 million in Kosovo to his private account). Both received prison terms for their frauds. The OSCE can also submit matters to national authorities but has not referred any financial misconduct cases as yet.

Accordingly, the IGO requires an in-house disciplinary and penal regime that can be applied in lesser cases of misconduct without relying on external actors. Many IGOs, including the World Bank and IMF, have their own tribunal systems to address this need. The UN, too, has a full-time tribunal system employing professional judges of at least ten years standing (or fifteen years for appeal tribunals) to review cases and

[48] An exception is the agreements the UN has in place for sexual abuse cases with troop contributing countries. In these cases, the country has the first refusal on investigating a case, but as these relate to misconduct by military contingents, much of the adverse publicity is inevitably born by the seconding country rather than the UN.

administrative decisions involving employees. This is a requirement imposed by Section 29 of the Convention on Privileges and Immunities (UN General Assembly, 1946) which requires the UN to institute "appropriate modes of settlement" for "disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General." In designing the current system, the UN aspired to parallels with national legal systems when stating that, "disciplinary procedures should be brought into line with those in most national jurisdictions and most other international organizations." (UN Redesign Panel, 2006, p. 18). One difference is that not all misconduct cases end up at a tribunal. Most are dealt with internally by management, and only those decisions that are disputed may come before a tribunal.

Although the UN legal system pays heed to the notions of fairness and due process for staff, even the tribunal system cannot always be separated from the political and financial interests of member states. This was evident even many years ago when the UN General Assembly, having instituted a legal regime with a system of binding judgments, subsequently proceeded to challenge such a judgment in respect of the tribunal's power to award compensation to staff members (Hwang, 2009). Although this happened under the UN's previous justice system, this intervention demonstrates the principle that the entire internal legal system is expected to fit into the overall system of governance, and particularly financial governance, which member states establish for their benefit and control.

Of course, it is harder to control a legal system if it is external to the IGO. In fact, while much of the UN system subscribes to the UN Internal Justice System, not every agency does. Instead, much of the remainder of the UN system, together with other assorted IGOs, recognises the jurisdiction of International Labour Organization Administrative Tribunal (ILOAT). Originally established for the International Labour Organisation (one of the earliest major IGOs, conceived at the same time as the League of Nations), ILOAT also considers appeals against administrative decisions of other IGOs that submit to its jurisdiction. Only the International Labour Organization is permanently tied to the authority of the tribunal, and this reduces the possibility that member states of other IGOs who submit to its authority can interfere with its

judgments or procedures. Ultimately, however, if these member states are unhappy with ILOAT, they can in theory decide to withdraw from its jurisdiction.

The OSCE legal system is based on a peer review system formerly in place at the UN which was described recently as having "remained in place for 60 years, largely unchanged and unaffected by advances in human rights law, administrative law and good industrial relations practice" (UN Internal Justice Council, 2010, p. 2). Even more critically, it was described as:

> "... neither professional nor independent. The system of administration of justice as it currently stands is extremely slow, underresourced, inefficient and, thus, ultimately ineffective. It fails to meet many basic standards of due process established in international human rights instruments. For all these reasons, staff of the Organization have little or no confidence in the system as it currently exists." (UN Redesign Panel, 2006, p. 4).

The majority of OSCE cases are dealt with by management, in conjunction with the peer review system. Appeals are considered by an ad-hoc external Panel of Adjudicators, largely comprised of diplomats from participating states. The OSCE does not consent to the jurisdiction of ILOAT or any other external tribunals, although there is nothing to stop it subscribing should it wish to.

The authority of the in-house tribunals or other penal regimes remains administrative in nature[49]. Accordingly, IGOs have recourse mainly to the same employment based sanctions available to any other employer, such as demotion, loss of pay and dismissal. However, while IGOs have no authority or infrastructure to impose criminal sentences such as imprisonment, the effects of disciplinary measures can nevertheless have further adverse consequences for the employee. For instance, the implications of dismissal may also include the loss of right of abode for the individual and their family (and consequently loss of income and/or education for family members) in the host country. For those employees who are have been seconded to the IGO from their national governments, information on their misconduct and/or dismissal will usually be transmitted to their home authorities, which may impede their future employment prospects.

[49] These are not legal proceedings subject to national law, and staff may not have the right to external legal advice, though they may be allowed to consult with internal colleagues or legal officials.

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This chapter has highlighted the autonomous characteristics of the IGO and why it needs a policing function. The premises of the IGO are inviolable, which precludes outside intervention in its affairs except by agreement. This brings with it the need to address governance issues through a system of policing by the IGO itself, particularly as many of its staff are also immune from criminal liability for acts committed in the course of their duties. In the IGO, various parties perform policing tasks, and while the security function deals with minor misconduct and might ostensibly be the more obvious policing function, it has little involvement in addressing serious fraud, corruption and related offences which come under the purview of the internal oversight office, and its investigation function in particular.

This chapter has also examined the context in which any system of internal policing must operate. The ruling member states have established a governance system based largely on the concerns of the largest net financial contributors, to which the staff population is expected to adhere. Thus, the rules and values imposed upon the IGO tend to reflect a western democratic bias. This can be perpetuated by the intrinsic ethnic composition of the staff population and official language of the IGO, notwithstanding that much of the inherently multicultural staff population originate from non-western backgrounds.

The sovereignty of the IGO and the imposition of a value system both have implications for policing by the oversight office whose functions are explored in more detail in the following chapter.

Chapter 5 – Policing by Internal Oversight

While the preceding chapter explained the need for policing in the IGO, this chapter examines the internal oversight office in more detail. In doing so, it attempts to address one of the primary aims of this thesis, i.e. the extent to which oversight is policing. It begins by explaining the type of work performed by the offices' investigation function, and its similarities with police detective work. This is followed by considering its policing role using Mawby's (1990; 2008) framework for categorising policing agencies using the criteria of legitimacy, structure and function, where similarities with the colonial policing are identified. Subsequently, an assessment is made of the mandate and jurisdiction of the office. It is noted that while these are inwards looking, they also may permit the occasional exercise of authority in sovereign states. An analysis of the oversight office's other main function, i.e. audit, finds that it too can be considered in policing terms, albeit in a patrol capacity working alongside the reactive policing function of investigation. In considering the oversight office as a holistic policing body, its characteristics are then compared with corporate policing where it is noted that the different levels of jurisdiction enjoyed by the respective organisations differentiates them. Sovereignty and jurisdiction are closely related to accountability, and the chapter concludes by considering accountability frameworks specific to both public and private policing, which further aligns internal oversight with the former.

Investigation as a Policing Function

Even though the inception of internal oversight offices is a recent development, this does not mean that internal control was absent beforehand. Many IGOs had an audit department previously, which was later subsumed into the oversight function. However, in most IGOs the internal oversight office has evolved beyond audit alone. This is largely down to the UN who, in the early 1990s, recognised that "the Secretary-General had few tools to gather evidence on criminal, illegal or improper conduct of UN staff members or contractors." (United Nations, 2008). These changes followed a UN procurement scandal (Appleton, 2011) and a spate of media allegations (Joint Inspection Unit, 1995). The impetus for change was led in particular from those member states who were net contributors to the UN budget and who, according to the US Government Accountability Office (2005, pp. 1-2), "criticized [the UN's] lack of

internal oversight mechanisms" and accordingly the United States "withheld U.S. funds until [an internal oversight] office was established."

In establishing OIOS, the UN General Assembly (1994, p. 4) mandated the investigation function to examine violations of "regulations, rules and pertinent administrative issuances". Its OSCE counterpart was mandated by the Permanent Council (OSCE, 2000, p. 2) thus:

> "The scope of Internal Oversight shall also include the investigation of allegations, which come to or are brought to its attention, of possible violations of regulations, rules or related administrative instructions and allegations involving waste or mismanagement of resources or fraud or other impropriety."

The investigation of misconduct clearly falls within the definitions of policing (Rawlings, 2008; Bayley and Shearing, 1996 et al) provided in the previous chapter. Investigation work is a specialist policing function whose purpose as defined by the Conference of International Investigators (2009)[50], an annual gathering of the IGO investigation community, is "to examine and determine the veracity of allegations of corrupt or fraudulent practices [...] and allegations of Misconduct on the part of the Organization's staff members". OIOS (2009, p. 2) proceed to define an investigation as "A legally based and analytical process designed to gather information in order to determine whether wrongdoing occurred and, if so, the persons or entities responsible." These definitions are also consistent with Sir Richard Mayne's second objective of efficient policing, i.e. "detection ... of offenders if crime is committed..." (Mayne, 1829)[51].

IGO investigation work closely approximates to that undertaken by detectives in the criminal investigation function of national police agencies. Bayley (2005, p. 145) notes that the vast majority of detective investigation work involves "[talking] to people – victims, suspects, witnesses – in order to find out exactly what happened in particular situations and whether there is enough evidence..." These are the very same tasks undertaken by an internal oversight investigator, notwithstanding that fraud inquiries in either context also involve in-depth document examination as well.

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[50] These guidelines are not intended to be binding on any organization, but represent minimum agreed standards of best practice.

[51] Mayne also talks of punishing offenders although this is not the job of the oversight office, but of the wider justice system in which it operates.

Bayley also refers to police criteria for accepting cases, i.e. whether a credible perpetrator has been identified and/or whether the crime is sufficiently high profile. Similar considerations are also adopted in the IGO context. Such case prioritisation is particularly necessary where the number of complaints exceeds the capacity to investigate them all.

To illustrate, a typical investigation will involve the receipt and assessment of information, which will be followed with relevant background checks. If there is considered to be a prima-facie case of misconduct, an official investigation will be opened and an investigation team put together. They will begin by conducting further checks from open source information and restricted sources (e.g. internal databases, personnel department, etc). The investigators will proceed to interview complainants, victims and witnesses and will review and analyse any documentary or physical evidence which is uplifted and secured as necessary. Usually, the investigators will conduct interviews with the suspect(s) towards the end of the investigation and conduct any follow-up inquiries as required. Use may also be made of specialist forensic skills (e.g. to interrogate computers or match fingerprints or handwriting) and upon compilation of the required evidence a report and/or findings are compiled.

Investigations are also conducted with due process in mind. Suspects in an investigation are given the opportunity to comment on oversight findings before the cases are forwarded to management for their action. The main difference compared with a national law enforcement body is that internal oversight aims to uphold findings of misconduct in an administrative – rather than criminal – setting. Accordingly, management action may be sufficient to dispose of the case, or in cases of continued dispute, the case may end up in an administrative tribunal in those IGOs with recourse to such a system. Nevertheless, this illustrates how investigation operates within the confines of an overarching legal system as with policing in a nation state context.

Legitimacy, Structure and Function

Further comparisons with policing can be performed by reference to Mawby's (1990; 2008) contention that policing agencies can be distinguished by reference to legitimacy, structure and function:

Legitimacy

> "Legitimacy implies that the police are granted some degree of monopoly within society by those with the power to so authorise, whether this is an elite within the society, an occupying power, or the community as a whole (Mawby, 2008, pp. 17-18)."

IGOs are established and controlled by their member states, often in a capacity that broadly reflects a parliamentary model, such as through the UN General Assembly. These bodies promulgate the policies that establish the oversight offices. The oversight offices of both the UN and the OSCE have mandates from their respective political bodies through General Assembly resolution 48/218b, and Permanent Council Decision 399/2000 respectively.

These mandates confer legitimacy to the oversight office on the basis that it is provided by those with the necessary authority to do so. However, it is the political elite that bestow this legitimacy rather than the IGO staff population being policed.

Nevertheless, legitimacy also lies in the perception of the public (National Research Council, 2004) who may find it difficult to argue against the institution of the oversight office. This is because even where a policing system is imposed, employment in an IGO is almost always consensual[52]. Thus, unlike state citizenship, it is relatively easy to opt out of employment. New staff in particular, by accepting the terms and conditions of the IGO, are implicitly recognising the legitimacy and authority of the oversight office. UN Staff Rule 1.2 (c) specifies "It is the duty of staff members to [...] cooperate with duly authorized audits and investigations." OSCE Staff rule 2.05.1(b) similarly states that "OSCE officials must fully respond to requests for information from OSCE officials entrusted with investigating possible misuse of funds, waste or abuse."

In his review of the investigation function of the World Bank, Volcker (Volcker, 2007, p. 33) made the point that "every employer has the right to demand upright conduct by its employees". Given that an internal audit facility is almost *de rigueur* in any sizeable organisation, few can object to an oversight office in principle.

[52] This may not apply where, for instance, military or police peacekeepers are seconded by their government.

Reiner (2010, p. 5) recognises the inherent complexities of policing relationships when in referring to policing as being the security of social order, he notes that it:

> "may be regarded as based on a consensus of interests or a (manifest and/or latent) conflict of interests between social groups differently placed in a hierarchy of advantage, or a complex intertwining of the two."

Accordingly, while the oversight office is not designed with the views of staff in mind, the diversity of the staff population can also mean that the legitimacy of the oversight office is inherently accepted by those whose value systems accord with those of the dominant political and financial interests governing the IGO.

Thus, internal oversight may be said to have actual legitimacy from the member states, and varying degrees of assumed legitimacy from the staff population.

Structure

> "[This] implies that the police are an organised force, with some degree of specialisation and with a code of practice within which, for example, legitimate use of force is specified." (Mawby, 2008, p. 18)

In terms of organisational structure, oversight offices are highly centralised, usually within a central headquarters office. The majority of IGOs house their audit and investigation staff in one central office. The main exception is the UN which has auditors and investigators in regional offices and field missions throughout the world, but the bulk of the investigation division is centralised in three main UN headquarter offices (New York, Vienna and Nairobi).

Specialisation is evident through the formation of the investigation function itself within the oversight office. Some of the larger investigation departments have sub-specialisations. OIOS formerly had a specialist offshoot dealing with procurement fraud investigations and even now, their main offices employ dedicated computer forensic experts. A professionalization of the investigation vocation is also beginning to emerge. For instance, qualifications such as those issued by the Association of Certified Fraud Examiners (ACFE) are becoming increasingly prominent and are sometimes specified in vacancy announcements. Additionally, the Conference of International Investigators provides the IGO investigation community with an established network for professional development and sharing of best practices.

Mawby and other commentators also see policing in terms to the ability to apply force. As Walker (in Anderson and den Boer, cited Swallow, 1998, p. 2) put it, 'police is the label and policing the means used by the state when asserting its exclusive title to the use or threat of force against dangers within its territory. Bayley (1985, p. 7) agrees, claiming that 'police' means those "authorised by a group to regulate interpersonal relations within the group through the application of physical force". However, these views are aimed at 'the police' as a specific organisation and do not necessarily apply to all policing work. A policing agency does not need to routinely administer force to qualify as a policing function, and Mawby (2008) recognizes that the extent and type of force considered appropriate in a policing agency will vary, while Reiner (2010) notes that not all policing is about the use of force. An example in national law enforcement is the UK Serious Fraud Office, which is entitled to compel the production of information but had no ability to employ force of its own even though it engaged in policing through the investigation and prosecution of offences. Where such force is required (e.g. in effecting arrests), it can call upon the services of the police to assist as appropriate.

Use of force is not directly specified in the mandates of oversight offices, and the internal oversight office will rarely exercise physical force against staff members. Nevertheless, limited use of force may be inferred to the extent that internal oversight investigators have the authority to go anywhere in the IGO and access anything without hindrance, and they will on occasion take appropriate measures to preserve evidence, such as physical destruction of locks to access IGO property where evidence is at risk of loss. This is implicitly provided for in the OIOS mandate (UN Secretary-General, 1994, pp. 1-2), which specifies:

> "The Office shall initiate and carry out investigations and otherwise discharge its responsibilities without any hindrance or need for prior clearance [...] Additionally, they shall have the right of access to all records, documents or other materials, assets and premises and to obtain such information and explanations as they consider necessary to fulfil their responsibilities."

The OSCE mandate states that OIO "shall have unrestricted access to all personnel, records and documentation... property and premises of the Organization." (OSCE, 2000). Further, all staff are obliged to assist internal oversight, and this includes the

security function, who internal oversight can call upon if the use of a more overt physical presence is required.

Accordingly, the internal oversight office is structured by a degree of centralisation; specialism through the investigation office; professionalism; and, the ability to call upon the use of force as needed.

Function

> "Function implies that the role of the police is concentrated on the maintenance of law and order and the prevention and detection of offences." (Mawby, 2008, p. 18).

Law and order in the IGO context is the adherence to the rules, regulations and code of conduct of the organisation. The role of audit in preventing crime is explored separately (below), but where rules and procedures are contravened, the investigation function is tasked with detecting the offences through the acquisition of evidence to bring the perpetrators to account.

While enforcing the rules is a key task of the oversight investigation function, Lohman (cited in Westley, 2005) takes the view that law enforcement is only incidental to supporting the dominant political, social and economic interests of society. This view can certainly apply to the oversight offices, which were established primarily for the protection of member states' financial interests as evidenced by their mandated tasks and their role in assisting the executive of the IGO. Both the UN General Assembly (1994) and the OSCE Permanent Council have stated that the purpose of their oversight offices is to assist their respective Secretaries-General in discharging their management responsibilities. As the JIU (1998) note, "the ultimate reason for having oversight is to determine whether United Nations system programmes and activities are meeting the objectives established by Member States, who are the intended beneficiaries."

While some police organisations conduct administrative tasks on behalf of the state in addition to their law enforcement responsibilities, oversight offices do not routinely become involved in any administrative or management tasks. Although the OIOS mandate is silent on the performance of management tasks, the JIU (1998) note that this would be incompatible with the independence requirement for oversight

mechanisms. The mandate of the OSCE (and even other UN agencies, e.g. UNDP) specifically prohibits the oversight office from having any authority or responsibility for operational or management functions.

Accordingly, oversight offices meet the functional requirements of being seen as a police agency both in terms of preventing and detecting offences and of supporting the dominant political and economic interests of the IGO.

Policing Models

Oversight offices can thus be categorised as policing agencies in terms of legitimacy (derived from the political elite); structure (centralised professionalised and specialised with regards to internal investigations) and function (ensuring adherence to the rules for the protection of the financial interests of the member states).

Mawby (1990; 2008) uses the tools of legitimacy, structure and function in his comparative analysis of policing models. While conducting an in-depth comparison of internal oversight with each of the different national policing models is beyond the scope of this thesis, the inapplicability of a western democratic policing model instantly stands out. Given that IGOs are usually influenced by western values and standards of governance, and given that oversight offices are expected to enforce the regulations arising therefrom, it might be assumed that oversight would reflect a western democratic model of policing. It does not. Indeed, this would contradict with the overriding priority of protecting the interests of the political elite rather than service to the staff population at large. Despite oversight mandates paying nominal heed to the requirement for fairness and due process for IGO staff, this is a subservient consideration. If even the independent tribunal system has been challenged by member states for making financial awards in accordance with its judicial mandate (see Chapter 4), then the oversight office can still less hope to be assessed by any notion of democratic policing.

Rather, by reference to the criteria of legitimacy and function in particular, it can be seen how the oversight office's relationship with the legislative bodies – supported by the executive as represented by the respective Secretaries-General – takes precedence over any relationship with the multi-ethnic staff population that it polices. This characteristic is immediately identifiable with policing according to the colonial model

where an external government imposes its own policing system on the population for its own political ends (Mawby, 2008). Under such a model, policing is not governed by the population and the laws imposed by the colonial power take precedence over pre-existing national laws (Brogden, 2005). This bears comparison with the IGO whose rules are rooted in western democratic governance models that are superimposed over both host country laws and the expectations of employees from other cultures. As the OIOS Under-Secretary-General has said, "When you come into an environment like the UN [...] personal experiences and values must be checked at the door, in favour of a defined set of rules that applies inside." (Lapointe, ca. 2012).

While some aspects of colonial policing, and in particular its militaristic element, are absent from internal oversight, Mawby (1990) cautions against overemphasising the differences in policing models. Certainly, the matter of importance in this thesis is the pre-eminence of the relationships between the oversight office and the ruling elites. These relationships take precedence over that between the oversight office and the multi-ethnic staff population that it polices. This is central to analysing the manner and degree to which investigation is accountable for its actions and performance. The primacy of the oversight office's relationship with the legislature and executive will be considered further in the following chapter in the context of policing accountability.

Scope and Jurisdiction of Activities

Having aligned the investigation function of internal oversight with policing, discussion will now turn to the scope of the work undertaken, both in terms of the range of cases it may take on, and the jurisdiction it may exercise. While OIOS's mandate does not limit the investigation function to any particular area of misconduct, this must be seen in the context of the founding resolution (48/218b), entitled 'Review of the efficiency of the administrative and financial functioning of the United Nations' (UN General Assembly, 1994). The fact that there is no specific reference anywhere in the resolution to misconduct of a non-financial nature implies that the primary function of oversight offices is to ensure compliance with the rules and regulations of the IGO for the protection of financial interests. However, while fraud and corruption remain of primary importance to member states, oversight investigations have evolved to cover a broad range of misconduct, often because few others are equipped to

undertake professional investigations[53]. Even with the multiplicity of policing functions in IGOs, few have the dedicated investigation expertise at the disposal of the oversight office. Accordingly, internal oversight is often tasked with investigating cases outside of its financial remit.

The UN for example undertakes a broad range of activities and OIOS in turn investigates a wide range of misbehaviour, often relating to UN military and police peacekeepers (including sexual exploitation and abuse, or 'SEA' cases). Indeed, OIOS now looks at a wide range of misconduct, and in particular 'Category 1' offences, which include major fraud, corruption, theft, rape and sexual abuse, assault, torture, murder, narcotics offences and illegal trafficking[54]. So prevalent have these cases become, that they now outnumber the number of financial cases. Statistics for 2010 (Joint Inspection Unit, 2011a) show that of 180 investigations undertaken, only 56 related to financial matters, with the rest pertaining mainly to recruitment/personnel and sexual abuse cases. This differs markedly from earlier years as can be seen from a review of OIOS annual reports which, while not always providing statistics, give brief descriptions of the types of cases undertaken, the majority of which are clearly financial. Certainly, in 2000, the JIU (2000) noted that the main focus of UN investigations was on fraud and corruption but this has since changed. In 2006, following the Oil for Food scandal, the UN established a specialist Procurement Task Force within OIOS to tackle major financial fraud, but this unit was dissolved within three years. While its substantial workload was intended to be absorbed into mainstream OIOS activities, the majority of OIOS cases are now of a non-financial nature, although it remains the primary mechanism for addressing fraud and corruption.

The OSCE is also far less likely than the UN to encounter some of the more serious crimes or human right abuses given its lack of an outright peacekeeping role. The oversight office is also smaller, and there is no formal categorisation of the various types of cases beyond that provided for in paragraph 6 of the OIO mandate (OSCE,

[53] UNDP provides a recent example of an ever-expanding mandate. Although primarily concerned with financial matters, their internal oversight office has recently been mandated to implement a compliance mechanism for social safeguards in environmental programmes.
[54] A full list of the types of misconduct are in Appendix B

2000), which refers to waste, mismanagement of resources, fraud or other impropriety. i.e. economic crime.

Indeed, few other IGOs undertake the breadth of activities undertaken by the UN, but there is still scope for wide-ranging investigative activity. Frequently, this will include the investigation of fraud originating outside the IGO, e.g. by suppliers or NGO partners. Other IGOs, such as the IAEA, may have a particular interest in investigating leaks of sensitive information. In many IGOs, the scope of investigations can additionally cover harassment and discrimination cases. In the OSCE, such cases come under the aegis of the personnel department, with internal oversight providing assistance in particularly sensitive matters. However, as the JIU report (2011a) illustrates, with the exception of the UN Secretariat, financial cases continue to dominate misconduct allegations in the wider UN system.

The authority of oversight offices normally extends only to the staff and premises of the IGO. Staff misconduct is typically addressed by the internal oversight using administrative rather than criminal powers. Administrative powers do not generally include the use of force or arrest, or the ability to search private property or compel the production of private information (e.g. personal bank accounts). Nevertheless, staff are required to cooperate with internal oversight matters, whether contractually or through the rules of the organisation. For example, the UN Secretary-General (1994) has mandated OIOS to have:

> "...the right to direct and prompt access to all persons engaged in activities under the authority of the Organization, and shall receive their full cooperation. Additionally, they shall have the right of access to all records, documents or other materials, assets and premises and to obtain such information and explanations as they consider necessary to fulfil their responsibilities."[55]

Similarly, the OSCE's oversight mandate (OSCE, 2000, p. 2) states that:

> "All staff or mission members shall co-operate to the fullest extent possible with Internal Oversight in the identification and provision of relevant information that might assist in the discharge of the function."

[55] While UN General Assembly resolution 48/218b (1994) established OIOS, the GA left the particulars of the OIOS mandate to be established by the Secretary-General. He fulfilled this requirement through the issue of Bulletin ST/SGB/273 (UN Secretary-General, 1994). These two documents, together with subsequent GA resolutions, form the core mandate of OIOS.

Although oversight offices may also investigate matters affecting the IGO from outside (e.g. fraud by suppliers), obtaining external information generally relies on voluntary cooperation rather than compulsion. However, a certain degree of cooperation can be compelled through contractual agreements between the IGO and suppliers or project partners. IGOs often require those doing business with it to sign audit clauses giving the IGO the right to access and inspect the external party's records. The multilateral development banks in particular rely on these powers to conduct investigations involving external contractors, but others including the UN (in particular the now defunct Procurement Task Force (see Appleton, 2011)) and OSCE have used them as well. This normally occurs where the IGO disburses funds to external project partners, which include NGOs and even host country government agencies. In the case of the latter, this results in the IGO conducting inquiries with government officials in pursuance of its investigations[56].

In some instances, internal oversight offices are even able to exercise quasi-jurisdictional powers. For example, IGOs can provide an interim government administration. This had happened recently where the UN administered the territories of East Timor and Kosovo[57], the latter jointly with the EU and OSCE working together under its auspices. In such cases, the UN exercises a full range of government powers, and may exercise judicial functions (Odello, 2010). In addition to the powers exercised by police and military peacekeepers, the internal oversight office may also be authorised to exercise an element of jurisdiction, as was the case in Kosovo in 2003 when the UN established an Investigation Taskforce (ITF). The ITF comprised investigators from two separate IGOs; the UN's OIOS; and the EU anti-fraud office, OLAF[58], working with seconded officers of the Italian Guardia di Finanza police agency. This multi-jurisdictional unit was a UN institution and had the authority to conduct financial investigations not just within the UN and the EU, but also within Kosovo's provisional government institutions. Although the powers of the two oversight offices within the ITF remained administrative in nature, they had full access to all organs of the provisional government and were able to call upon the Guardia di Finanza colleagues to exercise full criminal jurisdiction within the territory.

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[56] See for instance the investigation reports on the websites of the World Bank and The Global Fund.
[57] These interventions were authorised by UN Security Council resolutions 1704 and 1244 respectively.
[58] Although the OSCE also formed part of the UN mission, the organization did not employ any investigators at this time and did not contribute to the ITF.

In the majority of mission areas, IGOs assist, rather than supplant national governments. Even in these cases, IGO oversight offices may assume responsibilities beyond their own limited authority and make incursions onto the jurisdictions of member states. Peacekeeping or other assistance missions are usually present in developing and/or fragile states, some of which may be active war zones or post-conflict countries. These usually have weak institutions and rule of law and are not always in a position to effectively investigate crime in their own territory. It has already been mentioned that OIOS may conduct investigations into offences that include rape, trafficking, physical assault, torture of detainees, murder, arms trading, and the distribution of narcotics. Although such cases are not its primary focus, OIOS has investigated such matters where they involved UN employees, for various reasons including (i) establishing whether prima facie grounds of criminality exist to help the Secretary-General in deciding whether to waive immunities; (ii) to assist local law enforcement who may lack the necessary capacity; (iii) where local law enforcement have been reluctant to inquire into deaths occurring on UN property; and (iv) to assist national authorities into the deaths of their peacekeepers. The current Under-Secretary-General gave an example of a case where an investigation had to establish who stuffed a dead body in a water tank (Lapointe, 2012). Indeed, OIOS has investigated the full range of serious crimes, including fraud and corruption, which would normally be subject to criminal jurisdiction and which do not fall easily into the realm of 'administrative' investigations.

Accordingly, while the majority of financial investigations rely on internal administrative powers alone, the jurisdiction of the IGO oversight office can on occasion extend into areas traditionally the preserve of the state. This effectively amounts to the exercise of extra-territorial jurisdiction either in pursuance of its own administrative inquiries or in contributing towards criminal investigations for prosecution by the host country authorities.

Policing -v- The Police

In assessing the nature of oversight work, and comparing it with policing definitions and policing practices, it is apparent that the investigation function identifies with policing by reference to a number of similarities with the police in a national context. Nevertheless, as Newburn and Reiner (2004, p. 601) note:

> "[there is now an] almost universal usage of the term *policing* rather than *the police* in academic and policy discussion. This reflects the growing recognition that the police, the state financed and organised body that specialises in policing, is only one aspect – and possibly a diminishing aspect – of an ensemble of policing institutions and processes."

Rawlings (2008, p. 47) states that "by the police is meant those officials concerned with policing matters", while Cain (1979, cited Mawby, 1990, p. 2) stated that "the police, then, must be defined in terms of their key practice. They are appointed with the task of maintaining the order which those who sustain them define as proper". Nevertheless, while the police inherently conduct policing, they are not the only ones who do so. As Crawford (2008, p. 148) notes, "Policing [...] may be performed by a variety of professional and ordinary people"[59].

It is therefore important to distinguish between policing and 'the police'. The oversight office is not called 'the police' and neither does it have many of the powers (such as that of arrest) associated with traditional notions of the police. Bayley and Shearing (1996, p. 586) elucidate that in speaking of policing, they "are not concerned exclusively with 'the police', that is, with people in uniforms who are hired, paid, and directed by government" and that "the police and policing have become increasingly distinct". Mawby (2008, p. 17) echoes this view, noting, "there is a marked difference between 'policing' as a process and 'the police' as an organisation.

However, the internal oversight investigation office is not the only body with policing functions. The IGO security function has already been mentioned but the concept of policing can be a broad one, and includes not only enforcement but even tasks such as the reporting of crime (Mawby, 2008, p. 17), recording and/or forwarding of complaints of misconduct. By such criteria, bodies such as ethics offices, staff counsellors, ombudspersons, mediators, arbitrators, human resources personnel, and staff unions all engage in some policing functions. However, the policing functions of these offices are incidental to their main objectives, rather than forming their raison d'être, as is the case with the oversight investigation function.

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[59] One of the many examples of this was the decision of the British government to establish the Serious Fraud Office (SFO) in recognition of the fact that the police alone did not have the capacity to tackle serious and complex fraud. The SFO is staffed primarily by civil servants, yet the work they undertake is a form of policing.

Accordingly, the oversight investigation office cannot be considered as 'the police' but neither is it a body where policing is but a subsidiary function. Accordingly, it may best be considered as a 'policing agency'. Indeed, the following section looks at the policing function of internal auditors, a profession where terming them as 'police' would seem somewhat incongruous.

Audit as a Policing Function

Thus far, policing by internal oversight has focussed on the investigation function, but this is only one form of policing. As Reiner (2010, p. 5) notes, policing is typified by a patrol element "coupled with *post hoc* investigation of crime", and the majority of police services worldwide have both patrol and investigation functions. Certainly the work of the security department is one pro-active policing function akin to uniformed patrol in public policing. However, policing can be a broad concept, and it is possible to identify other actors within a holistic oversight office who may be engaged in police work.

Internal audit forms a large part (and typically the dominant one) of many oversight offices, including in the UN and the OSCE. In some other agencies audit and investigation functions are separated[60]. Various oversight offices additionally have an evaluation function[61] (the oversight offices of both the UN and OSCE combine all three, though in the UN in particular these divisions are "separated both culturally and institutionally" (Andersen & Sending, 2011, p. 23)[62]). Regardless of structure, an examination of the nature of audit work shows similarities with police patrol work distinct from that performed by the security department.

Just as the criminal justice system is about achieving public accountability for illegal activities (Stenning, 1995a), IGO internal investigations – as part of a broader justice system – are a means of holding people to account for their actions. Audit, too, is also about providing an account (Pearce, 1995) and given that policing is concerned with

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[60] Internal audit is a separate office in the multilateral development banks and the EU's OLAF.

[61] The role of the evaluation function is to assess the efficiency and impact of projects, but this is often a smaller unit and is somewhat detached from the control and enforcement side and thus not covered in this thesis in any depth. In some instances, evaluation is not seen as an oversight function. For example, whereas in the UN system, internal audit and investigation are combined in almost all instances, evaluation is only included about half the time (Joint Inspection Unit, 2010b, pp. 5-6).

[62] This is borne out by the author's experience where, over the course of three years with OIOS, he had only one formal meeting with his audit colleagues.

maintaining order as well as preventing and detecting crime, this thesis proposes to include the audit function of internal oversight in the IGO policing community.

Although internal audit is sometimes perceived as a transaction and accounting verification function, this is more routinely performed by external auditors, whose focus is on providing assurance on the reliability of financial accounts. The role of internal audit is rather to "[provide] assurance that internal controls in place are adequate to mitigate the risks, governance processes are effective and efficient, and organizational goals and objectives are met" (Institute of Internal Auditors, 2012). As part of this process it verifies and reports on the adequacy of internal controls and adherence to relevant rules and regulations of the organisation.

References to oversight in the IGO have historically tended to reflect the audit function almost exclusively, primarily because audit is the dominant component of oversight offices, and accountability structures such as they exist were initially set up with audit in mind. This can be seen in much of the terminology, which is weighted towards audit, e.g. the OSCE mandate states that "Internal Oversight will conform to generally accepted internal *auditing* standards" (emphasis added) while both the UN and OSCE have 'audit' committees despite having significant roles vis-à-vis the investigation function. The JIU, in discussing the diversification of the oversight office beyond the audit function alone also make reference to the need for certain audit strictures to apply to investigation in regards to independence and objectivity (Joint Inspection Unit, 1998, p. 3). Even external parties conflate investigation with audit and refer to audit standards for internal oversight generically (see for example US Government Accountability Office, (2006)).

Certainly, the IGO investigation function has largely evolved from audit. In 1998 for example, over three quarters of UN specialised agencies and a third of UN Funds and Programmes[63] still relied on their auditors to conduct investigations (Joint Inspection Unit, 1998, p. 10) and those IGOs still without an investigation department continue to do so. The majority of UN agencies have only recently acquired a separate investigation function, as did the OSCE, in 2008. The synergies between audit and financial investigation are readily apparent, with forensic auditors in particular

[63] UN Funds and Programmes differ from UN specialized agencies primarily by virtue of the former being financed primarily by voluntary contributions from member states.

working on fraud investigations in the public and private sectors. Further, as the JIU (2010b) note, information can transfer readily between the two functions and this explains why they are frequently combined in one overarching oversight office. In such cases, investigation may be seen as having developed in a similar way to reactive police detection having followed police patrol[64].

There can also be an element of mandate overlap with the investigation function encroaching into audit responsibilities as well. In the UN, when establishing the OIOS mandate the Secretary General (1994, pp. 3-4) decided that the investigation function should:

> "also focus on assessing the potential within programme areas for fraud and other violations through the analysis of systems of control [...] On the basis of this analysis, recommendations shall be made for corrective action to minimize the risk of commission of such violations."

This is largely an audit matter, notwithstanding the specific emphasis on fraud, and while the OIOS investigation function has previously made some attempts at fulfilling this area of its mandate[65], such work is more routinely conducted by the auditors[66] [67]. The OSCE mandate does not distinguish between audit and investigation responsibilities, but many of the investigations undertaken have looked in-depth at the systemic issues that facilitated the perpetration of misconduct, and wide ranging recommendations have been made to remedy these. However, such recommendations are normally incidental to the misconduct investigation itself rather than proactive standalone inquiries.

The analogy between audit and policing in the oversight function was previously made by McCubbins and Schwartz (1984), who – in their article on Congressional Oversight

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[64] See for example Gaspar (2008) who discusses how most modern police forces began with a patrol branch before a reactive detection function emerged to work alongside them.

[65] See for example General Assembly document A/55/352, which is a report by OIOS in 2000 entitled 'Proactive investigation of the education grant entitlement'. While referring to various investigations into specific allegations of fraud (which by definition are reactive investigations) the objective of the report is to identify the risks and suggest improvements in the administration of the education grant. Notwithstanding the legal references to tribunal decisions, this is largely the same as audit work.

[66] Other agencies were also reported as having seen proactive investigations as an audit matter. Prior to the formation of the UNDP investigation function, it used OIOS on investigation matters but 'proactive investigations' were undertaken by auditors (Joint Inspection Unit, 2000/9, Annex I).

[67] Proactive assessments also need to be distinguished from proactive investigations aimed at identifying misconduct through intelligence and/or analysis tools rather than relying on the receipt of information from others. OIOS previously trialled a short-lived 'Knowledge Management Unit' aimed at harnessing information for proactive work.

– refer to the pro-active (audit) activities as 'police patrol oversight'[68]. Nevertheless, some in the audit function take objection to the description of their role as a policing function. A former director of internal audit at both the UN and the OSCE (Stern, 2011) explained that these objections stem from the shift in audit from financial checks towards evaluation based work focussing on efficiency and output, i.e. a move "towards a more independent and comprehensive value-added activity" (Joint Inspection Unit, 2010b, p. 3). In addition, some auditors perceive adverse connotations to being connected with policing activities. The JIU (Joint Inspection Unit, 2000, p. 14) for example notes that,

> "Auditors are increasingly seeking a more "user-friendly" image with participative audits and consultant services for clients, which would be undermined if they were seen as potential 'policemen'; Investigators can maintain a more detached stance with both witnesses and suspects."

However, the desire of some auditors to disassociate themselves from the image of policing[69] does not mean that they do not perform a policing function, albeit in a 'soft' non-confrontational style. For instance, the JIU themselves refer to the "police function of identifying fraud" (Joint Inspection Unit, 1998, p. 18) which remains a professional audit requirement. Indeed, the Institute of Internal Auditors (2010) states that auditors "*must* evaluate the potential for the occurrence of fraud and how the organisation manages fraud risk." (Practice advisory 2120.A2, emphasis added). The professional guidance (practice advisory 1210.A.2) also clarifies that auditors:

> "...should have sufficient knowledge to identify the indicators of fraud but [are] not expected to have the expertise of a person whose primary responsibility is detecting and investigating fraud."

Thus, identifying fraud is an audit policing function and it is only the conduct of the investigation that is a specialist task for the investigators. This is consistent with Reiner's (2010, p. 5) reference to the specific policing trait of "the creation of systems of surveillance coupled with the threat of sanctions for discovered deviance".

Not all auditors are averse to comparisons with policing. A former Head of Audit at the OSCE (Rajaobelina, 2011) noted that from the point of view of those being

[68] Investigation is primarily re-active and a response to specific complaints, which McCubbins and Schwartz refer to as 'fire alarm oversight', although they do not refer to 'investigation' directly.
[69] An example is provided by the reluctance of an audit colleague of the author to work on investigations as they felt it compromised their audit independence.

audited, the audit and investigation functions are often indistinguishable. This also mirrors national law enforcement, where the public may view both uniformed patrol officers and plain-clothes criminal investigators, simply as 'the police'. This has implications for both functions when the actions of one may impact upon the perception of the other.

Just as uniformed police patrol exists to prevent crime and disorder (an activity consistent with Peel's first Principle of Policing, as endorsed by Sir Richard Mayne (1829)), audits are pro-actively undertaken to assess internal controls and ensure compliance with corporate regulations. Audits also take on a patrol element to the extent that auditors attempt to review offices on a cyclical basis. The OSCE aims for a three-year audit cycle for instance, but as with police patrol of a given area, the precise extent and timing is adjusted in response to risk factors.

It is even possible to find links between audit and policing from ancient Greece. According to Romzeck and Dubnick (2000, p. 385):

> "Regular reviews of how officials conducted the city-state's business were part of the public agenda, and a general review capped every magistrate's term in office. Accusations brought by auditors and citizens could lead to public trials, with punishments ranging from reprimand and impeachment to imprisonment and death."

To some extent, such a situation is still evident today as can be seen in the example of the French Court of Auditors, which can bring charges against both appointed and elected officials for misuse of public funds.

To illustrate some more direct similarities with policing, it is worth considering the assumption that police patrol was historically responsible for checking that doors and windows were locked (Emsley, 2008; Westley, 2005). This is perhaps as close to an audit task of checking the adequacy of internal controls to prevent loss of resources as it is possible to get. More recently, many police agencies employ dedicated crime prevention officers to give advice on safety and security issues. This mirrors the audit advisory and recommendatory role in respect of strengthening and enhancing controls which is very much a 'soft' policing style where confrontation is avoided.

However, just as very little of the work of police patrol is about crime, neither does the majority of audit work involve fraud or misconduct. For the majority of the time, the police "are restoring order and providing general assistance." (Bayley, 2005, p. 142). Similarly, internal auditors exist to ensure that controls are working properly and to provide advice and address any weaknesses that can undermine the governance of the organisation.

Accordingly, both audit and investigation are policing functions, thus reinforcing the fact that investigation can be seen as part of a holistic policing agency and may later be included in any discussion on accountability viewed from a policing perspective. A comprehensive comparison between audit and investigation, comparing them with the functions of police patrol and police investigation (and soft and hard policing styles respectively), is to be found at appendix A.

Although audit may be seen in policing terms, the function is not unique to the IGO sector. The work of audit remains similar regardless of whether it is based in an IGO or in a commercial sector organisation. Audit work also tends to be more inward looking whereas the investigation function is more likely to conduct inquiries outside the confines of the IGO[70]. For example, whereas the UN in Kosovo established an investigation taskforce, there was no equivalent audit taskforce[71]. Indeed, the investigation function is far more active in seeking evidence outside of the IGO and even implicating external parties in misconduct.

Thus, while audit and investigation are both policing functions, they perform differing tasks. Whereas internal audit operates on similar lines whether in a public or private sector environment, the following section proceeds to consider whether the same can be said of the investigation function, and in particular whether it should also rightfully be compared with corporate sector policing rather than that undertaken by nation state authorities.

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[70] While audit may make inquiries externally, these are primarily aimed at assessing internal compliance and effectiveness. External inquiries by the investigation function will normally assess both internal compliance and external compliance too, often with a view to administrative sanctions or criminal referrals of vendors in cases of suspected fraud or corruption.

[71] While the UN and others have helped sovereign countries to establish their own government auditing entities, these are not normally part of the IGO. In Kosovo, for instance, the Auditor General was an agency of the Kosovo provisional government, whereas the Investigation Task Force was a UN body.

Comparison with Corporate Investigation

While the IGO exhibits state-like characteristics, there are differences too: the major one being that they are employment-based corporate entities whose employee population come under the jurisdiction of an administrative, rather than criminal, legal system. Notwithstanding the occasional incursions of internal oversight offices into matters of state jurisdiction, their administrative mandates raise the question of whether they might be more appropriately compared with private policing, such as that undertaken in trans-national corporations (TNCs). After all, IGOs still share important characteristics with any other employer. They are for instance largely susceptible to the same types of misconduct inherent in any commercial organisation (e.g. fraud, theft, corruption, conflict of interests, information leakage, abuse of resources or power, bullying and harassment). Whereas national law enforcement authorities assess whether there is sufficient evidence for arrest and prosecution, IGO and corporate investigators assess the sufficiency of evidence for management action. Cases do not have to be proven to a criminal standard. In the IGO, the generally accepted test is whether "something is more probable than not"[72] (Conference of International Investigators, 2009).

While it can therefore be tempting to view investigations from the viewpoint of private sector policing, there remain a number of differences in regards to both the influence and jurisdiction and IGO can exercise over and above that of its corporate counterparts when undertaking financial investigations.

Policing in the commercial sector often involves a profit motivation whereas the public sector involves stewardship of taxpayer funds, which are frequently deployed in projects for the benefit of, and in consultation with, member states. This, combined with the importance and occasionally even prestige associated with international organisations, particularly in developing or post-conflict countries, means that governments may be more willing to assist an organisation representing the international community than a private one. IGOs also work with the entire apparatus of government and have access to a wide range of officials and departments who may rely on IGO assistance or funding. IGO investigators can leverage this influence,

[72] The UN Dispute tribunal has recently specified a new criterion of 'clear and convincing evidence' where dismissal of the staff member is a possible outcome. See the case of Molari (UNAT-2010-164) as cited in judgment UNDT/2012/089.

either for access to information, logistical assistance or even in referring matters to local law enforcement. Where the matter involves fraud or corruption involving private third parties, the IGO may have another advantage. Although they have little power to compel third parties to cooperate with their inquiries, IGOs can attempt to access to information from suppliers or NGO partners through the imposition and exercising of 'audit clauses' in contracts, allowing the oversight office to inspect a supplier's books and records, for instance. While there is technically nothing to stop commercial organisations adopting similar measures in their contracts with others, the enforcement of audit clauses would doubtless encounter practical difficulties. Further, many companies would be reluctant to alienate an IGO given the possibility that they may share information among themselves to the detriment of the business. The multilateral development banks for example advertise the fact that they cross-debar firms among themselves.

While the IGO may wield considerable influence in facilitating the conduct of its investigations, this still falls short of exercising formal power. It could also be argued that some TNCs can also exert considerable economic and political influence on host country governments, and informal mechanisms in themselves are therefore insufficient to distinguish policing in IGOs from that in commercial organisations. The issue that does distinguish them, as Reinisch (2001, p. 133) states, is that of jurisdiction which "clearly sets [IGOs] apart from other nonstate actors like nongovernmental organizations (NGOs) and transnational corporations". Volcker (2007, p. 33) identified the same issue at the World Bank when he wrote,

> "...the Bank is not an ordinary employer. The Bank's privileges and immunities mean that its disciplinary and investigative conduct does not come under the scrutiny of any national legal system."

While oversight offices can occasionally encroach on the sovereignty of member states, the inverse is rarely the case, and the inviolability of the IGO is central to the distinction with policing in commercial organisations.

Pearce (1995) notes that corporations' rights, duties and privileges are dependent upon the power of the state. Those in the commercial and NGO sectors are subject to the laws of the host country, and their corporate policing powers are likewise subservient to national laws, which can vary across the different jurisdictions in which the private

sector operates[73]. Even though the powers granted to those undertaking policing in a commercial environment can be quite broad and even allow for limited use of force in some jurisdictions[74], these powers can only be exercised in accordance with the laws passed by the state, which supersedes any internal rules implemented by the company. In contrast, IGOs can apply rules consistently across its various offices, wherever they may be located. Related to this, host country authorities may intervene in suspected criminality within a commercial organisation of their own volition, for example by entering the premises of the organisation or otherwise compelling the production of evidence. However, the IGO remains inviolable, thus ruling out such intrusion, unless by invitation. Indeed, IGOs can sometimes be unresponsive to the demands of national law enforcement[75] despite the fact that Section 21 of the UN Convention on Privileges and Immunities (UN General Assembly, 1946) states that "The United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice". Even the Secretary-General himself appeared to acknowledge that compliance with this provision is optional, when stating (in the context of member states unilaterally pursuing criminal investigations concurrently being investigated by OIOS) that the UN has to consider "whether the cooperation is consistent with the interests of the Organization" (UN Secretary-General, 2007c, p. 8). This ability to elect whether to co-operate with national authorities further distinguishes policing in the IGO from that of the commercial sector.

Furthermore, an IGO could – with the approval of its member states – grant its oversight function additional policing powers. The UN Secretary General was apparently considering, in consultation with member state representatives, an investigative body with "quasi-jurisdictional" status to allow it to interact more effectively with national law enforcement bodies (Ahlenius, 2010, p. 20). While such a move would require the approval of the General Assembly, the mere possibility that the powers of policing can be prescribed by the IGO itself contrasts vividly with commercial policing, where national law defines limits on power. In addition, not all

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[73] The Head of Compliance Investigations of Siemens gave the example that managers are forbidden by German employment law from publicising the misconduct of employees, whereas in China, the local CEO is quite entitled to do this (Buehrer, 2012).

[74] In Canada, for instance, property owners can have powers of arrest on their premises.

[75] See the example in the introduction chapter where the author twice attempted unsuccessfully to obtain witness evidence from UN agencies who asserted diplomatic immunities on each occasion

public policing agencies exercise the full gamut of criminal powers and oversight does not need intrusive powers to be considered in the same breath as public policing.

Ultimately, the oversight office has sovereign jurisdiction but exercises largely administrative powers, and these hybrid characteristics set it apart from both public and private policing. That said, an issue closely interlinked with sovereignty and jurisdiction is that of accountability. If a company acts contrary to the law of its host country, it is legally accountable for its actions to the authorities of that country. If an oversight office acts contrary to the laws of any one country, its privileges and immunities prevent it being legally accountable to that country, even if it may be answerable to the member states as a corporate body. The accountability relationships to which the oversight office is subject can further assist in determining how policing by internal oversight might be most appropriately characterised.

Accountability in Public and Private Policing

Previous chapters have examined some of the definitions of accountability proffered by academics and the UN. This section begins to examine accountability as it applies to both public and private policing which in turn will assist in categorising the nature of internal oversight.

Stenning (1983, cited Stenning 2000, p. 336) refers to four broad modes of accountability for public policing:

> "Accountability through the political process ('political accountability'), accountability through the judicial system ('legal or judicial accountability'), accountability within the administrative systems of the state ('administrative accountability', which may be internal, within the organisation itself, or external, through the wider administrative apparatus of the state), and some mechanisms through which the police are directly accountable to citizens, by-passing the political, legal and administrative institutions of the state ('direct public accountability')."

Policing in the IGO environment fits comfortably within this framework. Political accountability can be seen in terms of accountability to the member states. Legal accountability incorporates the review of cases through the internal legal system. Administrative accountability includes reporting to the executive management of the IGO. Finally, direct public accountability may refer to those who the oversight office polices, i.e. the IGO staff population.

In contrast, Stenning (2000) notes that private policing is subject to both market forces and accountability to the state's regulatory and enforcement authorities and this provides for quite distinct accountability mechanisms under which an agency may have to answer for its performance. Stenning proposes seven mechanisms by which private sector policing may be held accountable, and in assessing their applicability to the IGO oversight office, each can be examined in turn:

i. *State regulation* of private policing is often performed by a regulatory body and may impose licencing requirements on individuals and firms. The UK Security Industry Authority is one such example. However, this type of regulation applies predominately to contract policing (e.g. provision of services for multiple clients) rather than in-house policing (e.g. a company's own internal investigators). Internal oversight offices are more closely associated with the latter, and, being a branch of the IGO executive structure rather than a private entity, are not subject to such regulation.

ii. *Industry Self-regulation* may apply in the commercial sector where there are multiple firms competing for business. Such regulation is also more applicable to contract rather than in-house policing[76]. Again, this does not apply within the IGO, where there is no 'industry' to regulate.

iii. *Criminal liability* can apply to both public and private policing roles, even if public policing often has more latitude in exercising its powers without fear of legal retribution. Such liability does not normally extend to the IGO, however. Whereas commercial organisations may be liable for the criminal acts or omissions of their employees, IGO staff are immune from prosecution by national authorities except in the most serious cases where immunities may be voluntarily waived. Even internal oversight officials who act in an *ultra-vires* manner are normally only subject to internal disciplinary measures given the absence of criminal jurisdiction in the IGO.

iv. *Civil liability* is one area in which there are similarities between the oversight office and the commercial sector. Although national civil law does not apply within an IGO setting, complaints are dealt with administratively. Further, in those IGOs which recognise the authority of a tribunal system, there is

[76] There are indications that this is also starting to apply within in-house policing as well, with Siemens and industry peers entering into 'integrity pacts' for industry self-regulation in procurement fraud.

provision for the award of financial penalties to staff members adjudged to have been unfairly treated by internal oversight or indeed any other branch of the IGO structure. In this sense, internal dispute mechanisms may imitate civil law procedures in a national setting.

v. *Labour/employment law* is similar to civil liability (above) in the IGO setting, given that the IGO itself is an employer. Although state employment law again does not apply, the IGO nevertheless instigates its own terms and conditions and specifies these in its employment contracts. Staff who feel that these have been breached can apply for redress either internally or, where applicable, through a tribunal.

vi. *Contractual liability* provides for private policing to be held accountable for performance of contractual obligations. This primarily relates to outsourced policing services rather than in-house corporate investigations as performed by internal oversight offices[77].

vii. *Market Forces* can influence the behaviour of private policing organisations, but internal oversight offices are an integral part of the IGO structure. The IGO occupies a public sector role and there is no private sector competition vying for the right to provide internal oversight[78], which is a branch of the IGO executive structure.

Some of these accountability mechanisms are geared towards contract policing rather than the in-house policing performed by the oversight office[79]. Of those mechanisms that are equally applicable to in-house policing, industry self-regulation is absent in the IGO sector, while criminal and civil liability can apply to public sector policing too. It is only in the area of employment law that the IGO exclusively shares features with in-house private policing, but even this is effectively the same as civil liability in the IGO context. Thus, private policing accountability mechanisms are quite different from those applicable to public sector policing and can be inappropriate for understanding the accountability of the latter (Stenning, 2000).

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[77] OIOS is mandated to provide investigation services to other UN agencies, but with the growth of in-house oversight offices throughout the UN system, this has become increasingly rare.

[78] Internal oversight offices themselves may however employ private consultants to work for them.

[79] Much of the literature on private policing is focussed on contract policing. See for example Crawford (2008) who notes that private investigation often has commercial objectives that are not necessarily compatible with prosecution, and that adjudication is more likely to take place in private justice systems. He argues that this leads to a lack of judicial oversight and that accountability is more likely to be contractual.

Certainly, internal oversight can be more easily assessed by the public policing accountability mechanisms expounded by Stenning. These distinctions suggest that accountability mechanisms are not merely characteristics of policing, but are some of its defining features. They are after all decisive in precluding a direct comparison between internal oversight and corporate policing in favour of public sector policing accountability.

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This chapter has described the main role and functions of the investigation function. In doing so, it has looked at one of the fundamental questions of this thesis, i.e. the extent to which the investigation function is policing. While the IGO does not employ an agency called 'the police', it is the functions performed, rather than the title held, that permits an agency to be considered in policing terms. Whereas various bodies may have policing responsibilities incidental to their main functions, investigation undertakes policing as its core function. The internal oversight investigation function can be considered as a dedicated policing agency. This classification is supported by (i) the objectives, and academic definitions, of policing which refer to the detection of offenders and crime control (Rawlings; Bayley and Shearing, et al); (ii) the similarities between the work of the investigation function and that of the police detective (Bayley, 2005) and the ability of the investigation function to examine misconduct of the highest gravity within the context of an overarching legal system; (iii) the ability to classify internal oversight as policing by reference to Mawby's (1990; 2008) criteria of legitimacy, structure and function which suggests similarities between internal oversight and a colonial policing model; (iv) the ability to contextualise investigation within a multi-functional oversight office in which audit is the primary 'patrol' policing function of internal oversight, and investigation the second; and, (v) the sovereignty enjoyed by the IGO which directly affects the parties to whom the oversight office it is accountable and where public police accountability structures (rather than private sector accountability mechanisms) are directly applicable to the office.

Thus, while oversight has been traditionally thought of in audit terms, this is an unsuitable reference point for the investigation function. Rather, audit may also be considered in policing terms, and this will be considered in the following chapters

which seek to explore oversight accountability from a policing perspective. However, while much of the literature on policing accountability is aimed at a democratic policing model, this conflicts with the colonial-style accountability relationships evident in the oversight office. The next chapter will consider whether these tensions can be reconciled in assessing public sector policing accountability mechanisms as they apply to the unique circumstances of the IGO policing function.

Chapter 6 – Accountability of the Internal Oversight Office

The previous chapter highlighted how accountability structures help define the nature of policing by the internal oversight office. Having done so, one of the other primary aims of this thesis is identifying the extent to which the IGO policing function is accountable. While accountability has been defined in earlier chapters, this chapter will identify the specific accountability relationships to which the oversight office is subject and propose a framework by which these relationships and related mechanisms can be analysed. The chapter will be rooted in a synthesis of the report of the Independent Commission on Policing for Northern Ireland, as chaired by Lord Patten ('the Patten report'). This was prepared as part of the implementation of the Good Friday agreement in furtherance of the Northern Ireland peace process. The Patten report was a wide ranging narrative on policing in the province, but the subject of accountability was a central thread of the report, which stated that "Accountability should run through the bloodstream of the whole body of a police service" (1999, p. 22). Reference is also made to Stenning's model of public policing accountability as described in the previous chapter.

As these models are biased towards analyses of police organisations and practices within democratic polities, cognisance will also be given to Romzek and Dubnick's accountability definition as described in chapter four, together with the authors' discussions about how accountability regimes can apply in any context in which power is delegated. This helps in analysing accountability within the IGO, which should not be understood as a democracy, and will be illustrated with references to the dilemma of the operation of oversight offices working to a professional agenda among the staff population, concurrent with having to respond to external pressures from their Secretaries-General and member states.

It would be expected that the office should only be held accountable for those actions over which it has direct control and this section examines the extent to which this applies in a discussion on the independence of the oversight office. It is found that in their (i) organisational relationship with their respective Secretaries-General; (ii) ability to plan their activities; and, (iii) ability to conduct such activities, the oversight offices enjoy a certain level of independence, and despite that independence being

stronger in the UN – particularly at an operational level – neither organisation's oversight office is completely immune from interference. This in turn highlights the importance of the relationship between the oversight bodies and the executive and legislative organs, which have mandated oversight to assist the Secretaries-General but have been reluctant to completely cede their own ability to monitor the work of the offices. Accordingly, the accountability mechanisms pertaining to these hierarchical and political relationships assume primary significance for the oversight office.

Components of Accountability

Accountability is integral to the work of the oversight office which itself is a component of accountability (UN Secretary-General, 2010). Thus, if, as the former Under-Secretary General of OIOS asserted, "the Secretariat must at all times be prepared to deliver and render account of its performance" (Ahlenius, 2010, p. 2), then it must be incumbent on the oversight office to lead by example and reflect the accountability it seeks from others. The JIU also considers that "[OIOS] should themselves be subject to monitoring and oversight." (Joint Inspection Unit, 1995, p. 46), and proper accountability can certainly act as a check on its powers. As Rea, Donnelly & Fitzsimons (2009, p. 7) note in the context of policing, "the expectation is that having to give an account of actions will work to control behaviour".

By examining the definition of accountability referred to earlier as proposed by Romzek and Dubnick (2000), i.e. "A relationship in which an individual or agency is held to answer for performance that involves some delegation of authority to act" it is possible to break this down into its constituent parts:

i. *The agency.* In this case, it is the oversight office;
ii. *The relationship.* There are relationships with the stakeholders, the categories of which will be identified through the formulation of an accountability framework (below);
iii. *Answering for performance.* This is the means by which the agency gives an account to the various parties it has relations with. These specific relationships and mechanisms will be assessed in the following chapter; and,

iv. *Authority to act.* A delegation of authority implies that the one giving account has been awarded a degree of independence to perform their tasks[80].

It is the last of these that merits further attention at this juncture. Clearly, the fact that the oversight office has similarities with the colonial model hints strongly at the source of such authority. Romzeck and Dubnick (2000, p. 384) state:

> "[...] accountability relationships are as established as means for carrying out the delegation of tasks and communication of expectations. The very effort to establish such a relationship implies that there is no intention of completely surrendering authority over the task. Rather, there is every indication that the ruler intends to retain ultimate control. Thus, in deferring to an accountable agent, the ruler seeks to maintain some control."

In asserting this control, it follows that the rulers are able to require accountability. As Brodeur (1999) notes, being accountable involves an *obligation.* Stenning (1995b, p. 48) concurs:

> "As the elements of obligation and enforceability are weakened, so is accountability itself. When information is disseminated purely at the whim, and under the control, of a government agency, rather than pursuant to some enforceable obligation to do so, it is more appropriate to speak of public relations (or, more pejoratively, propaganda), rather than accountability. The key here is that the agency itself, rather than its 'audience,' which is primarily or exclusively determining what information will be disseminated, how, when, and to whom."

In the IGO setting, those with the ability to exercise control and require accountability are primarily the member states and the chief executive. Nevertheless, there are also various other stakeholders in the oversight office who must be considered. The Patten report provides an accountability framework based on accountability through political structures ('democratic accountability'); the community ('transparency'); legal; financial; and, internal structures. This is broadly consistent with the definition of Stenning (1983, cited Stenning 2000, p. 336 – see previous chapter) who referred to political, direct public, legal and administrative accountability for public policing. While these provide the basis for considering IGO policing accountability, these

[80] It can also be that the party granting authority to act is distinct from the party to whom the agent is accountable, as may happen for example in legal accountability, where authority is granted by a legislative organ, but the agent is held to account for its use of such powers by a judicial one. Andersen & Sending (2011) distinguish this 'process accountability' from 'performance accountability'. The former is concerned with 'how' something is done, and the latter with 'what' is performed.

models focus heavily on accountability through the democratic political process to the community being policed.

Democratic Accountability

Accountability as a feature of democracy is also a major theme of the Patten report (p. 32), which states:

> "In a democratic society, all public officials must be fully accountable to the institutions of that society for the due performance of their functions, and a chief of police cannot be an exception".

It is important to note, however, that accountability to institutions is not synonymous with democracy. Rather, accountability is an integral part of any form of governance exercised through the delegation of authority, and not just the exercising of democracy. Accountability relationships exist "in modern democratic regimes as well as totalitarian ones" (Romzek & Dubnick, 2000, p. 383).

The linkage between accountability and democracy can arise because some accountability mechanisms are perceived as legitimate and defining characteristics of a condition (Dubnick & Frederickson, 2011). Democracy would be one such example as, drawing on the work of others, the authors (p. xix) proceed to note that "The promise of democracy (legitimacy) is related to the view that accountability is a core, if not defining, characteristic of regimes that meet contemporary standards for 'good governance'". Romzek and Dubnick view accountability as a matter of governance rather than of democratic principle, while Dubnick and Frederickson (2011, p. xv) call into question the relevance of accountability mechanisms being used to cater for the community, stating that, "The very notion of accountability mechanisms implies their relevance as administrative 'tools' and policy 'instruments'."

While Bayley and Shearing (1996, p. 596) consider that "Democratic principle requires that police be accountable so that they serve the interests of the people", there is little direct accountability to the IGO staff population who have little say in the governance structure under which they operate or the politicians who determine it.

Although it may be argued that IGOs are democratic to the extent that decisions are based on majority voting or consensus, this is a peculiar form of democracy between

the member states alone. They are not, however, democratically accountable to the staff population being policed by the oversight office (see community accountability, below) or even the populations of the member states as a whole. Firstly, not every member state is a democracy. Only 60% of the world's states are electoral democracies (Freedom House, 2012), and this is reflected in the almost universal membership of the UN and other global IGOs. The OSCE also has a mixture of democratic and non-democratic member states. Even if the proportion of democratic states were higher, such as in the Council of Europe (where democracy is a requirement of membership), true democracy would still be absent, as the representatives of member states are by and large diplomats or political appointees rather than elected officials. While particularly important decisions (such as those taken in the UN Security Council) may involve instructions coming directly from the leaders of the member countries, more mundane issues such as the administration of the IGO and consequently the accountability of internal oversight rarely reach these exalted levels. Rather, such issues are primarily decided by a parliament of bureaucrats, only some of who take instructions from elected representatives of their home countries, and even this may be an indirect link through civil servants in government agencies. Stiglitz (2003, p. 118) refers to such situations as an "attenuation of accountability". Thus, the internal governance of the IGO cannot be said to have a direct connection with the will of the member state populations.

In their study of IGOs as bureaucratic organisations, Barnett and Finnemore (2004, p. 15) also note the tensions between the founding values based on western standards and the governance practices applied:

> "On the one hand, a strong thread running through the ever-expanding world of IOs is their substantively liberal character. Most IOs were founded by Western liberal states and are designed to promote liberal values [...] However, the liberal norms embodied and promoted by these organizations are generally not matched with the accountability or participation procedures that liberalism favours. These are emphatically not democratic organizations."

This is not to suggest that efforts have not been made to make the UN, or other IGOs, more democratic. In 1986, for example, the JIU proposed an overhaul of the internal UN justice system to implement a two-tiered justice system, noting that this was "one of the basic principles of democratic law and is established in most countries" (Joint Inspection Unit, 1986, p. 14). The JIU proposals were however rejected at the time,

although they were subsequently adopted almost a quarter of a century later (see legal accountability, below). However, any democratic characteristics exhibited by an IGO are limited in nature and scope, and accountability to the community is very much subservient to accountability to the political authorities.

Given that the Patten report examines accountability in the context of UK democratic policing, and specifically that of Northern Ireland, an obvious question is whether this report is an appropriate basis for assessing policing in an IGO, which has more synergies with the colonial model of policing, rather than the UK model. After all, the Patten report's proposals were influenced by notions of plural policing (through the involvement of Clifford Shearing as one of the report's Commissioners), which envisaged the need to draw multiple actors into the process as a "collective community responsibility" (Shearing, 2000). This community aspect is conspicuously absent from most notions of colonial policing.

Nevertheless, the Patten report can be considered relevant for various reasons. Firstly, policing in Northern Ireland originated from the Constabulary of Ireland, which "was organised as a colonial constabulary [...] rather than along the lines of other conventional police forces in the British Isles." (Police Service of Northern Ireland, 2008). This has not prevented the Police Service of Northern Ireland (PSNI) seeking to be a model of accountability, largely as a result of the Patten report. Indeed, even among the high standards of accountability exercised by the UK police (Robertson, 1998; Association of Police Authorities, 2010), the Northern Ireland model now stands out as being one of the most accountable. Its former Chief Constable, Sir Hugh Orde (2010), endorses this view and has pointed out that the logos of the organisations to which the PSNI was accountable occupied two entire slides of a PowerPoint presentation. The Patten report was more recently described as the "gold standard" for policing accountability and transparency (Goggins, 2009). Thus, while not all of the report's proposals were subsequently enacted into law by Parliament, its aspirational character provides a comprehensive accountability framework which can serve to assess policing accountability elsewhere. Further, the fact that the police in Northern Ireland work in an inherently multi-cultural society (particularly in regards to its religious divide) provides an additional point of reference in comparing accountability structures with the IGO.

Accountability Framework

There are five main types of accountability which Patten considers necessary in the context of democratic policing, namely: democratic; transparency; legal; financial; and internal. This has clear similarities to the model supported by Stenning (1983, cited in Stenning 2000)[81], although in his model, the concepts of financial and internal accountability (which are given separate attention in the Patten report) are combined.

Alternatively, Romzek & Dubnick (2000) refer to accountability more generally, rather than specifically from a policing perspective, and posit four main pillars of accountability: hierarchical, legal, political and professional. Hierarchical accountability is absent from the Patten and Stenning models, but is an important component of IGO accountability, given that oversight offices are mandated to assist the executive management of the organisation. The JIU also include it (1995, p. 3) in referring to accountability to executive heads, governing bodies, and their responsibility in turn to Member States and publics (note that accountability to the staff is absent).

Thus, by comparing the components of accountability as described by the Patten Commission, Stenning, Romzek & Dubnick and the JIU, this thesis will propose an accountability framework by which IGO policing may be assessed:

Consolidated IGO Accountability Framework				
Patten	**Stenning**	**Romzek & Dubnick**	**JIU**	**Consolidated List**
Democratic	Political	Political	Governing Bodies	**Political**
Transparency	Direct Public		Publics	**Community**
---	---	Hierarchical	Executive Heads	**Hierarchical**
Legal	Legal	Legal	---	**Legal**
Internal	Administrative	Professional	---	**Internal**
Financial		---	---	**Financial**

The terminology and substance of the consolidated list differs from those others described above, and the proposed headings – together with reasons for diverging from the Patten report in particular – may be described as follows:

[81] Stenning's ideas appear to have influenced the Patten report, having been cited in it. In addition, Stenning has collaborated on other research with one of the Patten Commissioners, Clifford Shearing.

Political Accountability is referred to in the Patten report (1999, p. 22) as democratic accountability, i.e. "described as that "by which the elected representatives of the community tell the police what sort of service they want from the police, and hold the police accountable for delivering it."

As IGOs are not democratic societies, the term 'political accountability' as proposed by Stenning and Romzek & Dubnick is preferred to that of 'democratic accountability'. However, while Romzek & Dubnick refer to political accountability as a holistic theme incorporating accountability direct to the political institutions as well as the public, Patten and Stenning distinguish the two and refer to the latter element as 'transparency' and 'direct public' accountability respectively. Mawby (2008, p. 21) also considers that accountability to the public can be ambiguous to the extent that "it may reflect indirect accountability through the medium of elected politicians [but it may also] imply direct accountability to citizens 'in general'". This thesis will also make a distinction between the two types of accountability in order to highlight the very different accountability structures and mechanisms applicable to the 'politicians' of the IGO and its 'public'. Accordingly, political accountability in this context refers to the relationship between the oversight office and the member state politicians that govern the IGO.

Community Accountability is not dissected from political accountability by Romzek and Dubnick, who view accountability as a matter of governance rather than of democratic principle. The Patten report (1999, p. 22) does however separate the two elements but used the term, 'transparency', "by which the community is kept informed, and can ask questions, about what the police are doing and why". However, 'transparency' is a broad term that could equally apply to politicians, managers and any other stakeholders. It is particularly ambiguous to the extent that it does not distinguish the population of IGO employees that are subject to the authority of the oversight office and the public of member (and even non-member) states at large. This critique can also be applied to Stenning's terminology of 'Direct Public' accountability. Accordingly, this thesis will use the term 'community accountability' to emphasise that the issue being discussed is accountability to the staff community being policed in the IGO.

Whereas institutions in democratic societies are established for the benefit of its citizens, the IGO staff population is incidental to its aims and objectives. There is no mandated accountability to the staff community, which can therefore only be afforded if the oversight office does so voluntarily and this, according to Brodeur (1999) and Stenning (1995b), is not accountability at all.

Nevertheless, Jones (2008) sees value in accountability mechanisms as a method of providing an outlet for expression, negotiation and compromise. This can provide a semblance of accountability even where it is formally absent. Indeed, the views of the community should not be discounted, particularly if, as Flanagan, (2008) asserts, support – in addition to consent – are central to effective policing. Patten (1999) and Mawby & Wright (2005) consider that the consent of the population being policed depends on proper police legitimacy based on accountability. While this idea is also based on democratic policing, consent and support are tied to the ability of the oversight office to understand the views of the staff population. After all, as Her Majesty's Inspectorate of Constabulary ('HMIC', 1999, para 3.1) note, "Successful policing depends on understanding the perspective of those being policed." The possibility of the oversight office engaging, albeit voluntarily, with the community is another reason that this thesis looks at community accountability separately from political accountability.

Obtaining the community perspective can be difficult in the multi-cultural environment of an IGO, which arguably makes engagement and understanding even more important. The largest disparities in culture will inevitably arise in the most disparate IGOs and attitudes to policing will likewise vary. Indeed, a heterogeneous society will increase the potential for conflict over policing policy (Jones, 2008). A police service is more likely to build community relationships and achieve greater co-operation if it reflects the population it serves (Home Office, 2008). As the Patten report (1999, p. 3) asks, "How can the police be properly accountable to the community they serve if their composition in terms of ethnicity, religion and gender is vastly dissimilar to that of their society?"

Even though the IGO is not democratic in the sense of accountability to the staff population, oversight mandates refer to principles of fairness, which afford certain rights of due process to the staff population. Although limited in scope to those

directly affected by oversight actions, the output of the oversight office in this regard is made known to the managers within the organisation and can affect how they – as an important part of the community – perceive the work of the oversight office.

Accordingly, accountability to the community will be discussed in terms of the staff population at large, as well as from the perspective of those individuals directly affected by internal oversight action.

Hierarchical Accountability

Under a hierarchical system, staff "may be expected to comply with supervisory directives" (Romzek & Dubnick, 2000, p. 389).

The Patten report gives little specific attention to hierarchical relationships as these are supplanted largely by the political relationship existing between the police services and the Secretary of State for Northern Ireland (or the Home Secretary in most other UK forces) which is a component of Patten's 'democratic accountability'. In the IGO model, there is no such ministerial relationship, but rather an internal hierarchical one in which the oversight office is more closely related to the chief executive of the IGO concerned, i.e. the Secretaries General of the UN and OSCE. Neither the President of the UN General Assembly nor OSCE Chairperson-in-Office has a direct link with the respective oversight offices.

The direct hierarchical reporting line with the oversight offices makes this a critical relationship in the context of oversight accountability, and this merits a separate examination.

Legal Accountability, where the emphasis "is on administrators' obligations in the light of the expectations from sources external to the agency…" (Romzek & Dubnick, 2000, p. 390).

The Patten report (1999, p. 25) expressed the importance of such judicial accountability thus:

> "The police are tasked to uphold and if necessary enforce the law, but, like any citizens, they must at all times act within it. [They need] to be monitored in their adherence to the law, and to have any errors rectified and abuses punished.

> It is important for the credibility of the police in the communities they serve that all this should not only be the case but that it should also be seen to be the case..."

Legal accountability is nevertheless a broad topic and in addition to examining abuse of policing powers can also encompass everything from a judicial review of due process to the quality of evidence in a case. Although the need to ensure that the office does not act *ultra-vires* is of particular importance, the quality of investigations is also important if the oversight office wishes to enhance its legitimacy and support among stakeholders.

In the view of Lord Justice Denning, legal accountability assumes primary importance, as evidenced by his statement that the police "should be ... independent of the executive..." and "answerable to the law and to the law alone" [R v Commissioner of the Metropolis, ex parte Blackburn [1968] 2 Q.B. 118, 135.] The authors of the Patten report disagree with this view and note the importance of community views. In the IGO environment, community views are subservient to the political and hierarchical accountability relationships, but legal accountability is nevertheless an important external relationship.

Internal Accountability, "by which officers are accountable within a police organization." (The Patten Report, 1999, p. 22).

Internal accountability involves the management of performance within a policing agency. As the Patten report (1999, p. 59) notes, internal accountability:

> "...should first and foremost be a matter of management. Police managers, from the top of the organization downwards, should define clearly for all their staff the role that is expected of each of them in meeting the objectives agreed for the police service as a whole. Everyone needs to be clear about their personal performance objectives and the behavioural standards expected of them; they need to be monitored against those objectives and standards; and they should have a regular performance review with their line manager."

Romzeck and Dubnick (2000) refer to this aspect of internal accountability as professional accountability, i.e. the application of professional practices, where the supervisor defers to the expertise of their staff member.

The Patten report also explores internal accountability from the perspective of integrity as much as performance. It refers to the use of "information arising from complaints, internal discipline and civil claims for management purposes". Indeed, individual and institutional integrity are inseparable. As the National Research Council (2004, p. 298) noted, "whatever generalised view of legitimacy people have, it is overwhelmed by their reactions to the actions of the particular police officers with whom they are dealing", or as HMIC (1999, p. 9) put it, "every time an individual officer behaves badly, public trust and confidence in the whole Service is affected." This section therefore merits an analysis of the ways in which oversight offices are accountable for the integrity of their work. As Pearce (1995) argues, internal accountability can only be credible if there is a genuine dialogue with stakeholders who must in turn be empowered. This must therefore also be considered in the light of the section on community accountability.

Financial Accountability, "by which the police service is audited and held to account for its delivery of value for public money." (Patten Report, 1999, p. 22).

Unlike the other forms of accountability, which involve a relationship *to* a particular party or parties, financial accountability is about accounting *for* a resource. Stenning refers to this as administrative accountability but given that oversight offices are established primarily to protect the financial interests of member states, it is therefore important that they are seen to be accountable for the use of their own financial resources and financial accountability merits a dedicated examination.

This aspect of accountability can also be viewed from multiple angles. The Patten Commissioners focus on the issue of value for money, and this is indeed important. However, financial accountability is inexorably tied to the financial resources allocated by the legislature, which therefore makes this a political issue as much as a financial one. As Marshall (2005) notes, the management of police resources is a legitimate political concern. Internal oversight can only be accountable for the use of funds available to it, and this must be considered in the light of how the funds are allocated.

Independence

In Romzeck and Dubnick's (2000) definition of accountability, one of the key requirements is the authority to act. Thus, accountability can only be reasonably demanded where responsibility has been given to another to independently conduct a task[82] and this therefore merits an assessment of the extent to which the oversight office is structurally and functionally independent of those to whom it is accountable.

For policing to be effective and command legitimacy, it needs to remain free from political control, yet still be accountable. However, there are inherent difficulties in remaining independent of political control when "policing remains inescapably and inevitably political" (Jones, 2008). In the IGO setting, this difficulty is reinforced by the recognition of the former director of investigations at the UN oversight office that "Politics is the DNA of investigations." (Girodo, 2007, pp. 15-16), and as a former director of oversight at the OSCE noted, "In a political setting such as ours in the OSCE, fraud that carries with it even the smallest financial implications can become a high-profile event." (Bartsiotas, 2006). Indeed, with member states retaining control over budgetary approval (see financial accountability, below) it would be naïve to believe that politics can be totally eliminated from internal oversight. However, while an understanding of the political landscape is important in an oversight office, policing should still strive to be free from 'party politics' or national interests.

The need for independence was highlighted by the fact that (prior to the formation of OIOS), "oversight staff [were] threatened with involuntary transfers to hardship duty stations as a result of their oversight work." (Joint Inspection Unit, 1993, p. 26). This is an example of why the Conference of International Investigators, a forum for the IGO internal investigation community, endorsed a set of formal principles in 2003, and later revised in 2009, stating that Investigators should operate independently and be free from improper influence (Conference of International Investigators, 2009). This theme is also adopted in audit. The Institute of Internal Auditors (2010) state that

[82] While it is possible in some cultural settings to apportion blame to those who have no responsibility for a task this can result in unfortunate consequences (see Romzek and Dubnick (2000, p. 387)). Notwithstanding the lack of internal democratic governance, the Western cultural bias in most IGOs helps to ensure that accountability is commensurate with authority to act. There are exceptions, however, as discussed later in this section and the section on Legal Accountability (below) where the UN Secretary-General may be accountable for the autonomous actions of OIOS.

"internal audit activity must be independent" (International Standard 1100) and "free from interference" (International Standard 1110 A.1).

The legislatures of the UN, OSCE and others have given administrative control of the oversight office to the executive head of the IGO to whom the oversight office is accountable on a routine basis. This structure effectively amounts to a tripartite form of governance, with the head of oversight responsible for operations, but accountable to the chief executive, while reporting separately to the political representatives[83].

However, while the Chief Executives are primarily the administrators of the IGO[84], these top officials nevertheless take on a political role as well. The former Under-Secretary-General of OIOS accused the Secretary-General of violating the independence of OIOS and reminded him, "According to the Charter the powers of the Secretary General are relatively restricted – the Secretary-General is the CAO, not the CEO." (Ahlenius, 2010, p. 47). While correct, this fails to recognise that politics is an inescapable feature of the role of the Secretaries-General, who cannot avoid giving due cognisance to the views of member states. While Article 97 of the UN Charter (United Nations, 1945) does indeed state that the Secretary-General is the chief administrative officer of the organisation, Article 99 states that the incumbent "may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security". This is clearly a role which must bear political consequences. The UN (2012a) itself states that the role of the Secretary-General is "Equal parts diplomat and advocate, civil servant and CEO". In the OSCE, the position of the Secretary General was established at the 1992 Stockholm Council of Ministers not only as the Chief Administrative Officer, but also "the representative of the Chairman-in-Office" (the Foreign Minister of the annually rotating country chairing the organisation), i.e an inherently political role.

Separately, lawyers for the UN Secretary-General have attempted to highlight his political credentials by comparing his decision-making powers to those of a head of state, at least in the context of appointing U.N. officials. They argue that the Secretary-General is "accountable politically but not judicially" (Lynch, 2010). This

[83] This is similar in concept (if not in practice) to the tripartite statutory arrangement in place for governance and leadership of policing in England and Wales.
[84] The Chief Executive of the UNDP is even called 'the Administrator'.

is certainly a controversial legal opinion, and the former USG of OIOS refers to it as "fairly peculiar" (Ahlenius, 2010, p. 12).

Awarding political functions to the chief executive can impact upon the independence of the oversight offices. Conversely, consideration must be given to the fact that even the very term 'internal oversight' implies subordination to the Secretary-General as Chief Administrative Officer[85], and the JIU also note that internal oversight mechanisms are a tool for the executive head (Joint Inspection Unit, 2001). Even the mandates are clear. The UN General Assembly (1994, p. 3) specified that the purpose of OIOS is to "assist the Secretary-General in fulfilling *his* internal oversight responsibilities..." (emphasis added). In the OSCE, Internal Oversight "shall be positioned within the Office of the Secretary General and shall be wholly independent of other arms of the [organisation]. It reports directly, and is responsible, to the Secretary General." (OSCE, 2000, p. 1).

Thus, while the mandates of both organisations speak of independence, this is inevitably a qualified independence, particularly in the case of the OSCE oversight office. While OIO is independent of "other" arms of the OSCE Secretariat, it is not independent of the Office of the Secretary General to whom it reports and is responsible. Independence is stronger in the UN where OIOS enjoys independence "under the authority of the Secretary-General". The use of this terminology implies that OIOS is able to draw on the support of the Secretary General in the exercise of its functions. Unlike at the OSCE, OIOS is not structurally a part of the Office of the Secretary-General and there is no explicit reference to responsibility or reporting (except in the provision of its operational outputs).

An accountability relationship also implies that those delegating tasks are unwilling to surrender full authority (Romzek & Dubnick, 2000, p. 384). The question is therefore how the oversight offices, and in particular the organisationally independent UN oversight office, are able to operate independently but yet be accountable for their decisions to their Secretaries-General, and through them, the legislature. As the UK

[85] In a 1993 JIU report, the inspectors also argued that under Article 97 of the UN Charter, the definition of Chief Administrative Officer meant that the Secretary General alone should be accountable to the member states for all matters under his authority, including that of oversight (JIU/rep/93/5, para 166). However, this report was written just prior to the announcement of the formation of OIOS, whose mandate supersedes this argument.

Home Office (2004, p. 128) note, Government should not have the right to direct the police as to how they should conduct particular operations but that does not mean that they "should not be open to proper scrutiny about those decisions".

In the UN, the solution has been to implement a system of operational independence[86]. The Patten report sees this in terms of the ability to take operational policing decisions without political interference while being accountable for those decisions retrospectively[87]. As the JIU (2000, p. 8) note, "It is well recognized that those responsible for internal oversight must have operational independence in order to fulfil their duties." The General Assembly (1994, pp. 2-3) adopted this concept in resolution 48/218 B when stating that OIOS "shall exercise operational independence under the authority of the Secretary-General in the conduct of its duties". The General Assembly (2000, p. 3) also emphasized the notion of operational independence for OIOS in resolution 54/244. However, it is interesting to note the General Assembly's choice of words, i.e. "the operational independence of the Office of Internal Oversight Services is related to the *performance* of its internal oversight functions" (emphasis added), i.e. it is clear that the internal oversight should conduct operational tasks without interference but there is no reference to the accountability component.

Operationally speaking, the UN oversight office has stronger protections in its mandate, which specifically prohibits the Secretary-General from interfering in OIOS work by virtue of a bulletin (UN Secretary-General, 1994, p. 1) issued in response to General Assembly resolution 48/218b. The bulletin states, "the Office may not be prohibited from carrying out any action within the purview of its mandate." This provision was not demanded by the General Assembly, but was self-imposed by the Secretary-General. While such a precept could also be revised or withdrawn, this would be difficult to do without drawing adverse attention. (When the Secretary-General proposed changing another internal rule on oversight matters, the erstwhile OIOS Under-Secretary-General noted that while it was in his power to do so, it "would not pass unnoticed by Member States" (Ahlenius, 2010, p. 24)).

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[86] Marshall (2005, pp. 632-634) uses the term "explanatory accountability", i.e. the ability to demand information and have debate about policing, without interfering in operational decisions.

[87] The Patten report uses the term, 'operational responsibility' in preference to 'operational independence' which the authors feel may impede accountability and scrutiny. Neither Patten's terminology of 'operational responsibility' nor the existing concept of 'operational independence' was cited in the resultant legislation, i.e. the Police (Northern Ireland) Act (2000). However, the latter term remains widely used.

Whereas Ahlenius (2010) asserts that without operational independence *from the Secretary General*, the work of internal oversight would lack legitimacy or trust from stakeholders, this is exactly the situation faced in the OSCE, which lacks both the strong organisational and operational independence evidenced in the UN. The mandate of the oversight office is silent on the Secretary General's authority to intervene in operational matters, which could potentially allow him to curtail the independence of OIO. Although this has not happened in investigation, this remains a potential impediment to independence given that oversight investigators should have "full, free and prompt access to all accounts, records, property, operations and functions within the organization that it believes are relevant to the subject being investigated". (Joint Inspection Unit, 2000, p. 8).

A key feature of operational independence is the ability of the oversight office to conduct its work without interference. The UN General Assembly (1994) has mandated OIOS with the authority to initiate and carry out actions at its own instigation. The OSCE is also able to conduct individual investigations without prior clearance from the Secretary General. However, related to this is the ability to have "autonomy in establishing a work plan" (Joint Inspection Unit, 2000, p. 8) and while OIOS do enjoy such autonomy, this is not the case in the OSCE. Paragraph 14 of the OIO mandate (OSCE, 2000) requires that "Internal Oversight shall prepare an annual plan of work [which] shall be subject to the approval of the Secretary General." Thus, the work of OSCE's Internal Oversight is effectively subject to an annual veto by the Secretary General. However, given that investigations are primarily reactive in nature, interference in planning is a greater threat to the audit function and would only be relevant to investigations if the office decided to pay greater heed to pro-active investigations. In this regard, the UN's OIOS enjoys greater operational independence but both it and the OSCE enjoy stronger independence than some other IGOs including UNESCO and the International Telecoms Union which require all investigations to be approved by the chief executive.

Nevertheless, the Secretaries-General of the UN and OSCE can affect the workload of internal oversight by requesting it to undertake specific tasks. This potentially gives direct executive control over the oversight office. In the UN, the Secretary-General has stated that OIOS "may accept requests for its services from the Secretary-General"

(UN Secretary-General, 1994, p. 1). In the OSCE, "The Secretary General may also request special studies, investigations, reviews and counsel." In the case of both the UN and the OSCE, it is important to note the use of the wording "may" and "request(s)". In the case of the UN, the active decision making power is given to the Head of Oversight who can decide whether to accept or decline a request. This contrasts subtly with the OSCE where the participating states have given the active voice to the Secretary General to issue the request, implying that they should normally be accepted. Declining such a request is not always easy in a hierarchical relationship and undertaking such inquiries can also impact upon the use of resources, which may prevent oversight from fulfilling other tasks, including reactive investigations.

There is however a mechanism that can act as a check on the use of powers by the Secretaries General. Both the UN and OSCE have instituted audit committees, which are bodies comprised of independent oversight professionals who review the operation of internal oversight and report to the legislative bodies. The modalities of these committees is examined further (below) but in being able to monitor and report on the effectiveness of the oversight office, this can act to moderate any actions by the Secretaries-General that could adversely impact upon the functioning of the office.

Despite the strength of the UN OIOS mandate, the independence of its oversight office has publicly been called into question. An example of this was highlighted by events at the UN Procurement Task Force (PTF). The PTF was formed in 2006 as a temporary offshoot of the Investigation Division of OIOS, employing specialist staff on short-term contracts separate from the normal recruitment system. It was created in the wake of the Oil for Food scandal to look at procurement fraud in the UN at a time when the oversight office lacked sufficient financial investigation expertise of its own. However, after PTF investigations incriminated nationals from Singapore and Russia, both countries (but no others) took measures against the PTF: Singapore threatened to withhold funding thereby jeopardising the PTF's very existence while Russia attempted (unsuccessfully) to restrict PTF employees from being recruited into the mainstream UN system. Eventually, those states opposed to the PTF did indeed block further funding, thereby forcing the unit to close. This led the erstwhile Head of the PTF, Robert Appleton (2011), to state:

> "...oversight lacks true operational, budgetary and structural independence- despite language in resolutions to the contrary. OIOS is dependent upon the UN General Assembly for funding, positions and its mandate and on the Secretariat and Secretary General for selecting senior staff. At any time, the General Assembly can limit, refuse to fund, or end, the oversight body. While independence is stated in its mandate, to a certain degree, this is only theoretical, and not in fact the case. OIOS must have full operational, structural and budgetary independence to be truly independent and an effective oversight body."

The former Under-Secretary-General of OIOS (who tried unsuccessfully to recruit Mr Appleton as the OIOS Director of Investigations) similarly accused the UN Secretary-General of improper interference when stating, "Rather than using our findings and reports as your instruments for strong leadership you have tried to bring OIOS under your control." (Ahlenius, 2010, p. 19). Nevertheless, despite this statement appearing in a fifty-page report highly critical of the Secretary-General, nowhere is there any allegation that he interfered in operational matters. Rather, Ahlenius refers to operational independence in the context of having the ability to decide senior staff appointments without intervention, which suggests a misunderstanding of the concept of operational independence: even within OIOS there remains some debate over its meaning (Andersen & Sending, 2011) and the JIU likewise similarly misinterpret the concept (Joint Inspection Unit, 2011a). Indeed, while these criticisms may be valid in terms of administrative matters – and did indeed lead to the closure of the PTF – nowhere has the General Assembly specified independence for internal oversight in non-operational matters. Certainly, the administrative intervention by member states actually served to highlight their inability to intervene in operational matters, the independence of which remained intact.

In fact, so strong is the operational independence of OIOS that the Secretary-General's frustration in this regard is evident in his report (UN Secretary-General, 2011) on the administration of justice in the UN. Here – following a number of tribunal decisions that had gone against the UN – he complains that it is inappropriate for him to be held responsible for the actions of operationally independent departments such as OIOS over which he has no authority (this will be explored further in the section on Legal Accountability, below).

Both Appleton and Ahlenius correctly identified the issue of funding as a threat to the oversight office. Rather than requesting funding directly from member states, internal

oversight, like other departments in an IGO, has to discuss its funding proposals within the Secretariat which in turn submits a consolidated budget request to the member states. This provides the potential for the Secretary General or other actors (who themselves will be subject to oversight jurisdiction e.g. the finance department) to influence the oversight budget. The General Assembly recognised this danger in establishing the OIOS mandate where the GA requested:

> "[...] the Secretary-General in this regard, when preparing the budget proposals for the Office of Internal Oversight Services, to take into account the independence of the Office in the exercise of [its] functions..." (UN General Assembly, 1994, pp. 5-6)

A similar situation exists in the OSCE, where one delegate (Diplomat_A, 2012) did not consider interference by other departments to be a significant concern as he felt that the oversight office could raise this issue directly with the participating states. He felt that the main threat to financial independence was the Secretary General himself. However, the OSCE situation reflects that which previously existed in the UN where both OIOS (2006) and the JIU (2006) perceived a threat to the independence of OIOS and recommended that the internal oversight budget should be reviewed by an external mechanism. These recommendations were subsequently enacted through the establishment of the UN's audit committee, the Independent Audit Advisory Committee (IAAC) whose mandate includes the following responsibility:

> "To review the budget proposal of the Office of Internal Oversight Services, taking into account its workplan, and to make recommendations to the Assembly through the Advisory Committee on Administrative and Budgetary Questions [ACABQ]" (UN General Assembly, 2007, p. 4)

This has not completely resolved the issue of internal interference in budget planning, but it does allow the IAAC to independently assess the OIOS budget proposal (based on its work plan), which reduces the risk of this happening. The IAAC does not have the power to approve, modify or veto the work plans of OIOS but presents its review of the budget proposals to the General Assembly through the ACABQ (a sub-committee of the GA)[88]. Thus, checks and balances exist which largely preserve the financial independence of OIOS. By contrast, the OSCE is in the position where the UN was in with regards to financing before the existence of the IAAC, i.e with the

[88] For further details on the OIOS budget review process, see the report of the U.S. Government Accountability Office (2011, p. 39).

potential for budgetary interference by other internal actors and where no professional independent mechanism reviews the budget submission before it is voted on by the state parties.

The budget scrutinised by the IAAC does not form the entirety of the OIOS budget, however. There are in addition various UN programmes, which do not have their own oversight offices, but instead rely on OIOS to perform work on their behalf. The costs of audits and investigations performed on their behalf are not covered by normal OIOS funding arrangements. Rather, funding is negotiated with each fund or programme concerned. In these instances, OIOS is accountable to the agency paying the bills. This can be a political minefield, as was in the case of the Oil for Food program, which did not have its own internal oversight function, and relied on OIOS. When pressure was put on the Oil for Food programme to have its work audited, the Head of the programme, Mr Benon Sevan, reluctantly agreed to accept OIOS auditors but was careful to ensure that he only provided the funding to allow the audits to take place in the field, whereas the real problems that subsequently came to light would only have been discovered by a headquarters audit (Stern, 2011; US Government Accountability Office, 2005). Thus, OIOS was reliant on Oil for Food for the resources and mandate they could devote to the audit. This is an example of why internal oversight can only be accountable to the extent that it has control over its work programme, and funding can be a major impediment to proper performance and accountability. The role of OIOS was examined after the events of Oil for Food, and this case demonstrated an accountability gap, with the Oil for Food programme ultimately responsible for its own failings, but with OIOS unable to exert full audit control which led to widespread reputational damage to the wider UN as a result[89]. This lack of independence continues to be an issue, and the Chairman of the IAAC acknowledges that, "potential impediments to OIOS's ability to provide independent oversight remain" (US Government Accountability Office, 2011, p. 18)

There are other ways in which the Secretaries-General or other senior managers can affect the independence of internal oversight despite the strength of the OIOS

[89] While these funds and programmes may be separate from the UN Secretariat, examples such as the scandal at the Oil for Food Programme show that – at least in the eyes of the member states and the public – the technical distinctions between them does not always matter. Many UN agencies are still perceived as 'The UN'. Oil for Food was an autonomous programme, distinct from the UN Secretariat, but the fallout from this scandal affected the UN Secretariat directly.

mandate. One such example is the case of Stephen Schook, a former Deputy Head of the UN Mission in Kosovo. When faced with investigations into various allegations of misconduct (which were made public) including his relationship with an indicted war criminal, the UN Secretary-General decided not to renew Mr Schook's contract even though the investigation was incomplete. With Mr Schook gone, the case was unable to continue and the matter was effectively taken out of the control of the internal justice system, and provided a political solution to a potentially high profile and prolonged investigative and disciplinary process.

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This chapter has looked at various definitions of accountability and focussed on those applicable in the IGO context. It has then proposed a bespoke accountability framework by which the oversight office can be assessed by particular reference to democratic policing accountability models, adapted to the non-democratic nature of IGO policing. This model facilitates the identification of the applicable accountability relationships and mechanisms. However, as is consistent with any policing model displaying colonial characteristics, it is the accountability relationships with the legislature and executive that are of primary importance. These relationships are also the ones from whom the oversight office needs operational independence to function effectively but the chapter has described how the operational independence of the oversight office can be misunderstood and needs to be distinguished from any notion of complete independence which would prevent the member states from apportioning resources as they – rather than the oversight office itself – see fit. While the oversight offices of both the UN and OSCE enjoy a certain level of independence, this is far stronger in the UN, particularly in the conduct of operational matters. The potential for administrative interference also exists (albeit to a smaller degree in the UN), but the internal oversight office can only be accountable for the resources allocated to it. The strength of the independence granted to internal oversight ultimately reflects the mandates given by the member states. The next chapter will describe and analyse the mechanisms through which the oversight offices are able to demonstrate the effective use of the resources entrusted to it by the state parties.

Chapter 7 – Accountability Mechanisms

Romzek and Dubnick (2000, p. 382) state that, "Accountability mechanisms are the means established for determining whether the delegated tasks have been performed in a satisfactory manner". Where the previous chapter proposed an accountability framework for the oversight office, this chapter will identify and assess the mechanisms in place under each component of that framework.

Existing accountability structures inherent in multi-functional internal oversight offices have their roots from when it was predominately an audit function. That said, while a heavy audit bias often remains (e.g. with regards to 'audit' committees[90]) there is little to suggest that accountability has been previously approached in a coordinated method, whether by audit or in general. Thus, by assessing the accountability relationships through the perspective of a policing framework, this thesis proceeds to assess the accountability of the oversight office as a whole – and investigation in particular – for completeness.

The issue of independence, referred to in the previous chapter, highlights the importance of the relationship between the oversight bodies and the executive and legislative organs. Given the inescapable linkage between political and hierarchical accountability, the accountability mechanisms in these two areas will be examined first, followed by analyses of community, legal, financial and internal forms of accountability.

The chapter observes a number of lacunae across the accountability relationships evident in the IGO. That is not to say that accountability mechanisms do not exist, but their comprehensiveness and effectiveness are found to vary across both IGOs and across categories. In some instances, informal or voluntary mechanisms may provide an element of accountability in addressing the lack of formal accountability obligations. This applies particularly in the case of community accountability, where the lack of democratic credentials within the IGO is most evident. However, in view of the contention that accountability requires an element of obligation (Stenning, 1995b; Brodeur, 1999), such mechanisms cannot be relied upon to provide a

[90] While audit committees still dominate, there is evidence that the 'oversight committee' is gaining ground. UN agencies UNESCO, UNHCR and WIPO are among those now using the latter term.

sustainable solution. Nevertheless, the relationship with staff remains important if the oversight office seeks to achieve a measure of support from the community.

In order to identify and compare the strengths and weaknesses of the accountability mechanisms in each IGO, the remainder of this chapter necessitates a detailed examination of the mandates of the respective oversight offices.

Political Accountability

Political accountability may imply the existence of professional politicians, but in the context of the IGO, it exists through the medium of both ministerial and diplomatic officials assigned to represent their governments. Even in those countries where the diplomats are non-partisan, they exist to represent the interests of their country as determined by the ruling party. This political power is exercised through the IGO's governing board, e.g. the General Assembly, Permanent Council, or equivalent. It is this legislative body that establishes the mandates of the oversight offices and the accountability relationships it is subject to.

There should be little need for the internal oversight office to report to the member states. The mandates of both the UN and the OSCE explicitly state that internal oversight is established to assist the organisations' respective Secretaries-General. The JIU note that the issue of member states handling internal oversight reports should not arise as a matter of principle. Nevertheless "there has been an ongoing debate within the United Nations system on the issue of reporting by the internal oversight mechanisms to the legislative organs." (Joint Inspection Unit, 2001, p. 19). Certainly, one delegate to the OSCE (Diplomat_A, 2012) strongly disagreed with the suggestion that internal oversight should not be accountable to the member states, whatever the wording of the mandate, stating,

> "While it is fine for the SG to be considered the first line supervisor of the OIO, it is not appropriate for the OIO to hide behind the SG vis-à-vis the participating States. The entire Secretariat, not just the SG, should be accountable to the participating States."[91]

[91] Andersen & Sending (2011) also cite various UN resolutions in support of their contention that the GA sees OIOS as being accountable to it directly. In particular they cite paragraph 9 of resolution 54/244, which states that OIOS shall not propose any legislative changes to the GA as evidence that they see OIOS as accountable to them rather than the Secretary-General. However, the authors ignore the following paragraph of the resolution, which states that the Secretary-General may make such

While the concept of operational independence of internal oversight precludes direct involvement by the member states in oversight work, scrutiny may be accomplished by a system of explanatory accountability through retrospective reporting.

Reporting (Direct)

There are three main types of reporting to the IGO's member states: routine reports, ad-hoc reports and reports into individual investigations.

Routine Reporting

Routine reporting is normally conducted on an annual basis, and only in summary form. Originally, the UN member states apparently took little interest in the reporting of internal oversight. In establishing OIOS, the UN General Assembly required nothing more specific than an "an annual analytical and summary report on its activities for the year." (1994). Indeed, it was left to the Secretary-General to expand on this through the medium of an internal bulletin (UN Secretary-General, 1994, p. 6) which specified in detail what OIOS should report, i.e.:

(a) A description of significant problems, abuses and deficiencies relating to the administration of a programme or operation disclosed during the period;
(b) A description of all final recommendations for corrective action made by the Office during the reporting period relative to the significant problems, abuses or deficiencies identified;
(c) A description of all recommendations which were not approved by the Secretary-General, together with his reasons for not doing so;
(d) An identification of each significant recommendation in previous reports on which corrective action has not been completed;
(e) A description and explanation of the reasons for any significant revised management decision made during the reporting period;
(f) Information concerning any significant management decision with which the Office is in disagreement;
(g) A summary of any instance where information or assistance requested by the Office was refused;
(h) Where applicable, the value of any cost savings or recovered amounts resulting from recommendations and corrective action.

These reporting requirements appear to have been highly influential in the OSCE participating states' decision to require that OIO reports to the Permanent Council "may" contain the following (OSCE, 2000, pp. 3-4):

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proposals "through the appropriate channels". This implies that OIOS can propose changes to the Secretary-General who may in turn present them to the GA as he considers necessary.

- A description of the scope of Internal Oversight activities;
- A description of significant problems, abuses, and deficiencies relating to the administration of a programme or operation found during the period;
- A description of all main recommendations for corrective action made by Internal Oversight during the reporting period relative to the problems or deficiencies identified;
- A description of all main recommendations which were not approved by the Secretary General, together with his reasons for not doing so;
- Identification of each significant recommendation in previous reports on which corrective action has not been completed;
- A summary of any instance when information or assistance requested by Internal Oversight was refused;
- Where applicable, the value of any cost savings or recovered amounts resulting from recommendations and corrective action.

The major difference between the reporting mandates is not so much the required content (which is almost identical) but in the reporting line itself. When OIOS was established, its mandate required that it submit its annual report directly to the Secretary-General, who would in turn transmit it with his own separate comments to the General Assembly (UN General Assembly, 1994). However, soon after the Oil for Food scandal broke, these procedures were changed, with the General Assembly deciding OIOS should submit their reports directly to them, and that any comments from the Secretary-General should be submitted separately (UN General Assembly, 2005). This change cut the Secretary-General from the reporting line between OIOS and the General Assembly, thus signalling a lack of confidence in the UN Secretariat and a strengthening of OIOS's reporting independence.

These changes have not reached the OSCE, where annual reporting is similar to that which existed in the UN previously, i.e. the report goes through the Secretary General who in forwarding it to the Permanent Council may attach his own comments (OSCE, 2000). This gives the Secretary General the possibility to influence or negotiate changes in the OIO report. One former delegate to the OSCE (Diplomat_A, 2012) considered that this system hindered accountability to the participating states, some of who perceived that this meant they were not receiving all available information.

Ad Hoc and Individual Reports

The former OIOS Under-Secretary-General noted, "The United Nations is a publicly funded organization: it should provide its stakeholders – the Member States, and ultimately the citizens and taxpayers of the world – access to OIOS reports" (Ahlenius,

2010, p. 11). However, as regards individual reports, this is an area of divergence between the UN and OSCE oversight offices.

In the UN, the facility to disclose reports already exists. The changes brought about as a result of the Oil for Food scandal also saw the General Assembly require OIOS to publish an annual summary of all reports issued (UN General Assembly, 2005). However, the last two OIOS annual report did not properly fulfil this obligation as while investigation report titles were published, summaries of those reports were absent. While it may be argued that the titles were sufficiently detailed to fulfil the reporting obligations, OIOS itself nevertheless issued summaries in eight selected cases in its 2011 annual report (UN Office of Internal Oversight Services, 2011) which appear to be far more in line with the mandated reporting requirements. Nevertheless, the overall absence of report summaries remains a matter for the member states to pursue and the fact that this situation is recurring suggests they have not done so.

At the same time, the General Assembly also required OIOS to provide the full copies of its reports to any member state upon request, though this requirement is tempered by the ability of the Under-Secretary-General to modify or, extraordinarily, withhold investigation reports (but not audit or evaluation reports),

> "when access to a report would be inappropriate for reasons of confidentiality or the risk of violating the due process rights of individuals. However, the Under-Secretary-General for Internal Oversight Services must provide reasons for this to the requesting party". (UN General Assembly, 2005, p. 1).

This protects the independence of the office, but does not provide any additional accountability with regards to the investigation function, as very few investigation reports have been released recently and the decision to do so rests entirely with OIOS itself. While a number of investigation reports were released prior to the end of 2009 and have been published by the United States government[92], these have been so heavily redacted as to be almost incomprehensible. In 2011, with the exception of the United States (who request – and publish – every report), there were only three such requests from UN member states (Lapointe, 2012), thus further illustrating the varying levels of attention paid to oversight matters by differing member states.

[92] For further information, see the website of the United States Mission to the United Nations at http://usun.state.gov/about/un_reform/oios/index.htm

The OSCE oversight office is not required to publish summaries of its reports and has no mechanism for disclosing audit or investigation reports to participating states. Its annual reports do not contain any more detail than the types of misconduct dealt with over the preceding year. OIO 'may' report on significant issues and the recommendations arising therefrom. However, such information has been sparse in its recent annual reports. The lack of information on investigations has caused consternation for one delegate (Diplomat_A, 2012) who felt that there is a lack of accounting for investigations undertaken, but on the other hand, no delegations have formally requested such information. There is a provision for OIO to issue "ad-hoc reports" (OSCE, 2000, p. 4) to the Permanent Council but the wording is unclear as to what these reports may contain, and thus far no participating state has attempted to access OIO operational reports via this clause. Furthermore, another delegate (Diplomat_B, 2012) felt that he/she would not have time to read individual reports even if they were available and felt that his/her accountability expectations could be met by OIO providing regular thematic briefings instead.

Overall, the revised UN system of reporting affords OIOS greater independence from the Secretary-General by requiring the provision of extra accountability to the member states. These provisions are theoretically stronger than those in the OSCE given the direct reporting line to the General Assembly and the fact that operational activities must be disclosed, albeit in summary form. In practice, it is debatable whether OIOS complies with this requirement, and the majority of member states do not appear to take a close interest in pursuing information from OIOS, thus calling into question the effectiveness of their scrutiny. In the OSCE, the requirement to report through the Secretary General is a potential hindrance to the independence of OIO and its accountability to the member states. This is a consequence of the mandate which the member states themselves established – and which they ultimately have the ability to change.

In terms of disclosing operational reports, given that OIOS is allowed discretion in which to release, the element of obligation is missing and this is not an effective accountability mechanism. In this regard, neither the UN nor the OSCE are formally accountable to the legislature for their operational investigations.

Committees and Sub-Committees of the Legislature

The ultimate form of democratic, or political, accountability would be direct scrutiny by the legislature itself. In the UN, this would mean the entire General Assembly scrutinising the activities of internal oversight. This does not happen. Whether in the UN, the OSCE, or any other large IGO, the full legislature is unlikely to devote as much time to internal administrative issues as it is to discussing more weighty political matters such as international security. Instead, scrutiny is often achieved by devolving this function to one or more sub-committees.

In the UN, this responsibility falls to a body called the Fifth Committee (Administrative and Budgetary). Although the General Assembly has the ultimate decision making powers, such decisions are frequently based on committee reports. This can be seen in the change in internal oversight reporting requirements following the Oil for Food scandal. General Assembly resolution 59/272 of 2 February 2005 (which included the recommendation changing the OIOS reporting line to bypass the Secretary-General) was based almost verbatim on the recommendations in the report of the UN Fifth Committee (2004).

However, the Fifth Committee has significant budgetary responsibilities aside from monitoring internal oversight, which in turn is often further devolved to a sub-committee, the Advisory Committee on Administrative and Budgetary Questions (ACABQ). The Fifth Committee "may accept, curtail or reject the recommendations of the ACABQ. The conclusions and recommendations of the ACABQ often form the basis of the draft resolutions and decisions recommended by the Fifth Committee." (United Nations, 2012b).

The number of Fifth Committee reports relating directly to investigations is small, and is reflected in the similarly small number of ACABQ reports into the topic. An examination of ACABQ reports shows that since the inception of OIOS in 1994, the ACABQ have issued only three reports where investigation is mentioned in depth. The first of these (2002) merely refers to a report of the JIU. The second (2007) deals with resource requirements in procurement investigations. Only the third report (UN ACABQ, 2008) deals substantially with investigations. However, this report was itself a response to proposals from the Secretary General on strengthening the investigation

function (which in turn was based on the report of an independent investigations consultant). This lack of attention to internal oversight must be seen in the context of the sheer quantity of reports issued by the ACABQ which points to their own resource constraints, as alluded to by the JIU (2001). Thus, the General Assembly respond to Fifth Committee reports who in turn respond to the ACABQ who in turn respond to issues raised by others (including the UN Secretariat itself). This demonstrates that the UN's legislative oversight mechanisms are both cumbersome and largely reactive.

Further, the ACABQ do not have unhindered access to information. This can be seen in the one substantive report (UN ACABQ, 2008) on strengthening the investigation function which laments the fact that ID/OIOS declined to provide it with the full copy of the original consultant's report.

In the OSCE, the equivalent body to the Fifth Committee is the Advisory Committee on Management and Finance (ACMF), which assists the Permanent Council. It holds weekly sessions where it deals with most administrative matters and negotiates the OSCE budget. As with the UN committees, the ACMF does not have the authority to require internal documents or operational details from OIO. The ACMF representatives are asked for their input into the OIO annual plan, which is later shared as a courtesy, even though this is not a requirement. However, the committee has not as yet called upon internal oversight to account for their performance against the annual plan. Indeed, a former head of OSCE oversight (Rajaobelina, 2011) did not consider that participating states took as much interest in oversight matters as they could have done. In investigation matters in particular, there has been an apparent reluctance of some states to become involved[93], limiting their involvement to occasional observations at the presentation of the internal oversight annual report.

Differing levels of interest can also be rooted in politics. In the OSCE, a diplomat from one participating state which is highly supportive of accountability measures confided to the author that he was not in favour of the need for accountability to the extent that it existed in the UN. The reason given was that in the OSCE where all decisions have to be taken on the basis of consensus, it was felt that certain other member states (with whom diplomatic ties were strained) would use the extra

[93] Anecdotally, it has tended to be western-style democracies that appear most interested in oversight matters during presentations to member states that the author has attended.

information provided by the oversight office in an attempt to micro-manage the work of the organisation for political advantage. Accordingly, the diplomat was willing to sacrifice a certain amount of accountability in the interests of broader political issues.

As at the UN, a lack of resources may be a contributing factor to the reluctance of some delegations to exercise pro-active scrutiny. At a recent ACMF meeting at the OSCE, for example, several participating states complained that a 300 page document on the OSCE's performance over the previous year contained too much information, and they would prefer a briefer summary. Separately, the author suggested to one delegate that if the ACMF were to delegate responsibilities to a sub-committee to look more closely at internal oversight matters (as the UN has done), their ability to hold oversight to account could be enhanced. However, the delegate felt that – given their existing workload – the ACMF would struggle to find the time to even set the parameters for devolving such scrutiny! (Diplomat_B, 2012).

In both the UN and the OSCE, committees and/or sub-committees provide functioning legislative oversight mechanisms dedicated to examining matters including internal oversight offices, but their output is largely reactive to events or annual submissions. While they are not always able to compel the production of specific documents, scrutiny could nevertheless be enhanced if member states were able and willing to devote the time and resources to doing so.

Advisory Boards and Audit Committees – Indirect Reporting

> "The Audit Committee can be seen as an answer to the famous question 'who audits the auditor?'" (Ernst, 2011).

In addition to having an accountability relationship with the legislative assemblies and committees, oversight offices are sometimes required to report to advisory board or audit committee. These are independent of – but accountable to – the legislature. Their purpose is to ensure the effectiveness of oversight within the organisation (including, but not limited to, the internal oversight office), although mandates vary across IGOs.

The importance of the audit committee was noted by Paul Volcker, who chaired the Independent Inquiry Committee into the UN Oil-for-Food Program as well as a

subsequent review of the oversight office of the World Bank (Volcker. 2007, p. 15) where he proposed an advisory board to assist in monitoring "effectiveness and efficiency or to evaluate complaints about [Oversight] procedures" and "protecting [Oversight's] integrity and accountability." The EU's internal investigation office. OLAF, has a supervisory committee with the specific responsibility to "reinforce [OLAF's] independence by regular monitoring of the implementation of the investigative function." (European Community, 1999).

In the UN, the Independent Audit Advisory Committee (IAAC) was established in 2008 "to assist the General Assembly in discharging its oversight responsibilities..." (UN General Assembly, 2006, p. 6), specifically:

> 1. To advise the General Assembly on the scope, results and effectiveness of audit as well as other oversight functions;
> 2. To advise the Assembly on measures to ensure the compliance of management with audit and other oversight recommendations;
> 3. To examine the workplan of the Office of Internal Oversight Services, taking into account the workplans of the other oversight bodies, with the Under-Secretary-General for Internal Oversight Services and to advise the Assembly thereon; (UN General Assembly, 2007, pp. 3-4)

In the OSCE (OSCE, 2004, p. 1), the audit committee shall:

> "...exercise an independent appraisal function, providing the participating States with assurances that the Organization's controls are in place and operating properly. It shall perform this function through independent reviews of the work carried out by the OSCE's system of internal and external controls, including Internal Oversight, the External Auditors and the administration and management of the Organization. It shall also advise the Secretary General in his capacity as Chief Administrative Officer."

Audit committee members are normally composed of independent audit or oversight officials of high standing. This differentiates them from the other legislative committees, which are comprised of member state delegates and nominees. The UN IAAC is currently composed of senior government audit officials while the OSCE audit committee comprises two senior audit/investigation officials from other IGOs and a senior government auditor. The members of both committees work on a voluntary basis and are paid expenses only. The IAAC meets four times per year, and its OSCE counterpart routinely meets twice a year but may convene more frequent meetings as needed. These constraints inevitably limit the attention that can be paid to

monitoring the oversight office. Indeed, the former chairperson of the OSCE audit committee resigned midway through her term due to other commitments, and a current member (Ernst, 2012) has noted that even basic expenses such as the printing of its reports have to be met through members' own expenses.

The nature and composition of audit committees invites comparisons with the concept of policing boards (as proposed in the Pattern report) or policing authorities. A key difference however is that the role of the audit committee is advisory in nature only and cannot set objectives on behalf of the oversight office. In the UN, the IAAC can scrutinise OIOS plans and can recommend priorities, but cannot determine them. Similarly, whereas "The principal power of any police authority is the power to appoint or remove the chief officer" (Rea, et al., 2009, p. 9), this is not a function of an audit committee, although it may be consulted in such matters. Further, whereas a policing authority has a role in consulting with the community, this aspect is absent from the mandate of the Audit Committees, although there is no prohibition on them consulting staff as they see fit.

In terms of access to information, the IAAC does not have the ability to demand information from OIOS. While the current Under-Secretary-General (Lapointe, 2011) takes a pragmatic view and has stated that such information would be provided to them upon request, this relies on voluntary cooperation from OIOS – and thus the element of obligation required by full accountability is missing. This was implicitly recognised in the comments of the IAAC's inaugural report in 2008 (pp. 15-16) which stated "The Committee was also given appropriate access to the documents, information and external parties it needed to undertake its work in the three sessions held to date". By contrast, the OSCE audit committee has broad ranging powers for access to information and has access upon request "to all records and documents of the Organization, including audit reports, investigations, and work documents of the office of Internal Oversight and the External Auditors." (OSCE, 2004, p. 2).

The audit committees determine their own work programmes. In the OSCE (OSCE, 2004, p. 1) they "shall be guided solely by their expertise and professional judgement, taking into account the collective decisions of the OSCE governing bodies." By being able to report to the legislature on the operation of the internal oversight office, the existence of audit committees provide a counter-balance to chief executive's powers

by being able to draw the legislature's attention to any actions that could adversely affect the functioning of internal oversight.

Audit committees cannot be seen as an accountability tool in isolation, as they act as agents for others. The ability of the audit committees to access a range of information (albeit on a voluntary basis in the UN) is tempered by its purely advisory role, but this nevertheless makes them a potent tool for the legislature, and to a lesser extent the executive, with regards to strategic and policy matters. However, their limited resource capacity ultimately restricts their ability to fully scrutinise all aspects of the investigation function, and their reports to date have focussed on management and strategic, rather than operational, matters.

External Oversight Mechanisms

> "[OIOS] should themselves be subject to monitoring and oversight. This can be accomplished by external oversight bodies responsible to Member States, such as JIU and the external auditors." (Joint Inspection Unit, 1995, p. 46).

The JIU is an external oversight mechanism, which conducts oversight of the entire UN system, including OIOS. It is not an integral part of the Secretariat but is instead, appointed by the General Assembly. The JIU has full independence to determine its own workplan and has the right to full access to personnel and information across the various agencies of the UN system, and not just the UN secretariat.

While the JIU is mandated to receive all OIOS reports (UN General Assembly, 1994), its main area of work with regards to internal oversight accountability is in its strategic and policy reviews of the oversight office. Indeed, the JIU has concluded multiple reports on internal oversight and accountability within the UN system (including several on audit, investigation, ethics and accountability in the last two years alone). However, these are ad-hoc reports and its recommendations are not always acted upon. They cannot therefore be relied upon for providing routine scrutiny of internal oversight. The OSCE does not have a dedicated external oversight mechanism equivalent to the JIU.

Both the UN and the OSCE are subject to annual external audits. Both OIOS and OIO are obliged to provide the external auditors with copies of all its final reports, including investigation reports, either routinely (UN General Assembly, 1994) or on

request (OSCE, 2000, p. 4). However, the external auditors are not an accountability mechanism for internal oversight so much as a mechanism to assure the reliability of the financial accounts of the organisation as a whole.

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In summary, with the General Assembly, the 5th Committee, the ACABQ, the IAAC and the JIU, the UN has at least five separate legislative reporting mechanisms for the oversight of OIOS. The OSCE has fewer but is still accountable to the Permanent Council, the ACMF, and the audit committee. This can inevitably lead to the conclusion that having a plethora of bodies involved in governance can mean "too many bodies undertaking regulation and inspection [...] which leads to increased costs and bureaucracy." This is what Association of Chief Police Officers (2008, p. 53) pointed out in the context of UK policing and might be considered a particularly pertinent argument in an IGO where increased costs are exactly what member states are keen to avoid. Despite the sheer number of bodies and the potential for duplication of work, there is an apparent reluctance and/or inability on the part of member states to conduct pro-active scrutiny of oversight matters[94] as seen for example in the lack of interest by most countries in requesting OIOS reports; the fact that the ACABQ has only referred to investigations substantively in three reports in 18 years; and the lack of any requirement for performance accountability in the OSCE. This apparent lack of interest is exacerbated by the accountability gap whereby none of the UN legislative bodies conducting routine scrutiny have full rights of access to the investigation function. The OSCE fares only slightly better where the semi-autonomous audit committee has full access to OIO, but despite the potential experience its members can bring, they operate on a voluntary basis and do not have sufficient resources to exercise in-depth scrutiny of internal oversight.

Hierarchical (Executive)

Oversight offices are mandated to assist the Chief Executive of the IGO in governing the organisation. While the concept of operational independence requires the

[94] In establishing OIOS (UN General Assembly, 1994), and its audit committee 14 years later (UN General Assembly, 2006), the GA requested the Secretary-General to propose terms of reference thus demonstrating a reluctance by member states to devote the resources to doing so themselves.

oversight office to be able to work independently, it also requires the office to be retrospectively accountable for its operational decisions and outputs.

In the UN, OIOS is mandated to transmit the results of all investigations, together with recommendations, to the Secretary-General to assist him in deciding on jurisdictional or disciplinary action (UN General Assembly, 1994). Thus, the Secretary-General can hold OIOS accountable for its outputs. In reality, given the quantity of reports issued, many are provided instead to a delegated programme manager. However, even where a report is not sent directly to the Secretary-General, he has access to all OIOS audit and investigation reports (Lapointe, 2011).

In the OSCE, OIO is mandated to provide the Secretary General with "all significant findings resulting from an audit or appraisal or investigation in such form as deemed appropriate in the circumstances [...] Less significant findings shall be reported at a level deemed appropriate by Internal Oversight". (OSCE, 2000, p. 3). While these provisions theoretically give OIO discretion in what or how to report, the fact that the office is structurally part of the Office of the Secretary General (see Independence, above) effectively means that the he can require any information, and in practice, all unredacted investigation reports are routinely sent to him.

Thus, internal oversight is formally accountable for the performance and outputs of its investigations. On the assumption that there is no interference in the conduct of the investigations, this fulfils the accountability obligation of operational independence vis-à-vis the Secretaries-General who then has various outlets to express his satisfaction or otherwise. For instance, he can append comments to the annual reports to the legislature or discuss oversight performance matters with others such as the audit committees (as has been done in the OSCE (Rajaobelina, 2011)). Separately, the Secretary-General is empowered to take direct management action for poor performance by the Head of Oversight. Ultimately, there are protections against unjust removal of Heads of Oversight and the Under-Secretary-General of OIOS for example may be removed by the General Assembly while the Director of OIO may be removed only in consultation with the Chairperson-in-Office[95].

[95] The UN Under-Secretary-General serves for a non-renewable five-year term. All OSCE directors (including OIO) serve for a term of three years, extendable by a single year.

At an administrative level, in order to effectively hold an oversight office to account, it helps to know if the planned objectives have been achieved. The UN Secretary General has no part in the planning or budgeting process, and thus cannot effectively hold OIOS to account for its outputs. His OSCE counterpart is involved in both the budgeting and planning phases, and notwithstanding the potential compromises to independence this brings, he is well positioned to hold the oversight office to account for the results achieved. While no formal accountability mechanism is specified, it is arguably not needed given the line management relationship the Secretary-General exercises over the Head of Oversight. For example, the former OSCE Secretary General used the staff appraisal system to comment on the performance of senior oversight staff in relation to the office's actual outputs compared with those in the annual plan (Rajaobelina, 2011). Generally speaking, investigations do not form part of the annual plan given that they tend to be reactive in nature.

Overall, operational accountability is provided through the provision of investigation reports, and administrative accountability exists to a greater extent in the OSCE where the office is structurally linked to the Office of the Secretary General.

Community accountability (transparency)

IGOs are geared towards the demands of the legislature and the executive, and despite the existence of staff councils or committees, there is little provision for accountability to the community who are rarely consulted in matters of multi-lateral diplomacy[96].

The Patten report views community accountability in terms of transparency by which the community can see what the oversight office is doing. However, transparency can be notably absent in many IGOs, and the JIU also observed a widespread perception in the UN system "of a pervasive culture of secrecy in the decision-making processes of the organizations and little or no accountability" (Joint Inspection Unit, 2010a, p. 11), a view echoed by the former Under-Secretary-General of OIOS (Ahlenius, 2010). The OSCE too has been criticised for a general lack of transparency, with one survey (Lloyd, et al., 2007) noting that it was one of the least accountable and transparent

[96] This lack of recognition can be seen for example in the report of the expert UN Justice redesign panel (2006), who proposed to the General Assembly that staff associations should be permitted to effectively bring class action cases before tribunals on behalf of staff. This proposal was not adopted by the General Assembly (2009) when defining the jurisdiction of the new tribunals as per Article 2 of the Statute of the United Nations Dispute Tribunal.

IGOs, which is somewhat at odds with its aims of increasing governance and democracy among its member states.

Certainly, in speaking of transparency, the UN Secretary-General refers to accountability to the member states themselves:

> "I can see no better way for an Organization such as the United Nations to be accountable to its Member States than to be totally transparent in the way the Organization is run." (Ban Ki Moon, 2008, cited in Ahlenius (2010, p. 10))

The OIOS Under-Secretary General (Lapointe, 2011), agreed that there was no direct accountability from the oversight office in terms of providing information to staff, a view endorsed by her erstwhile OSCE, counterpart (Stern, 2011) although the latter did refer to informal accountability through liaison with middle management and the staff committee. Separately, another former head of OIO (Rajaobelina, 2011) was also unsure that there was any formal staff accountability by the oversight office but pointed to the medium of due process as an accountability mechanism specific to staff affected by the actions of the investigation function.

However, while there is no formal mechanism whereby the staff population can question the policing function of internal oversight, its absence does not mean that oversight should ignore their views. A report into the oversight office of the World Bank, criticised it for not being "well integrated into the culture of bank operations" (Volcker, 2007, p. 19) partly for want of a lack of outreach. As the former Head of the European Union anti-fraud body, OLAF, pointed out, "The investigative office must convince the institution of which it is a part that it is a service *for* the institution, and not *against* the institution" (Bruner, 2008, p. 128). Even an OSCE member state representative (Diplomat_B, 2012) felt that while internal oversight should not formally be accountable to staff, communicating with them was important for the credibility of the office.

In the absence of direct formal accountability mechanisms, informal procedures can be used. While the internal oversight office is not required to respond to the staff community directly, the use of staff committees can provide an outlet for expression, something which Jones (2008) considers to be one element of accountability notwithstanding the absence of any obligation to provide information (see Brodeur,

1999 and Stenning, 1995b). Furthermore, staff committees may bring their concerns to third parties, such as audit committees who may in turn require accountability from the oversight office.

More informal still are those instances where staff elect to shortcut established processes and approach representatives of their member states directly. Indeed, there have been many occasions where staff members, unhappy with the findings of the oversight office, have turned to their home countries for political support. In two recent cases, OSCE employees objected to the procedures or outcome of separate cases. Both raised the issues with representatives of their respective states, rather than pursuing traditional avenues of appeal. Although there was no formal mechanism for them to do this and it was in fact against the organization's rules (employees are not permitted to disclose work-related information outside the organisation), their causes were nevertheless taken up by the delegations concerned, and representations made to the Secretary General, thereby in turn requiring a response from the oversight office. However, the author has also observed instances where such an approach by an employee was not supported by their seconding countries. On at least one of these occasions, the staff member was chastised for breaching the organisation's confidentiality rules. Thus, pursuing an informal avenue is not without its risks and in the UN too, political lobbying by member states is implicitly frowned upon (there is a rule that prohibits member state intervention in recruitment affairs for instance). Nevertheless, it would be naïve to expect that it does not occur, as can be seen in the strong lobbying by the Russian and Singapore governments when their nationals were implicated in OIOS Procurement Taskforce investigations (see page 105).

In the UN, those cases that reach dispute tribunals are reported publicly, thus allowing the IGO community and even the public at large to be aware of oversight involvement where applicable. Indeed, staff members may attend these tribunal hearings in person if they wish. The less formal, closed OSCE legal system does not allow for unaffected staff members to observe or learn of proceedings.

The IGO community also tend to become aware of oversight investigations when they affect senior staff members. However, a JIU report (2011b, p. 24) on accountability noted a perception among UN staff members interviewed that "the higher the position held, the more staff was [sic] protected and able to avoid formal disciplinary

measures". Loirot (2005) notes how many senior UN officials at director level and above consider themselves immune from regulations and gives examples of cases where only junior staff are disciplined for wrongdoing even where this extends to senior officials as well. This can be a potential impediment to the legitimacy of the investigation process, and it is easy to perceive a similar situation in the OSCE, where Heads of Mission/Institution (who are political appointees responsible for field missions or semi-autonomous OSCE institutions) are not subject to the disciplinary procedures applicable to all other officials of the organisation of an inherently lower rank[97]. These same rules also mean that the Secretary General has no authority to impose disciplinary measures. Instead, these are in the purview of the Chairperson-in-Office who, being foreign minister of the country holding the rotating chair, is inherently less likely to want to be embroiled in administrative issues with diplomatic ramifications.

While the confidentiality of individual investigations must be respected, this does not mean that the procedures adopted by the investigation office should be hidden from the community at large. The Patten report (1999, p. 36) recommends that the police take steps to improve its own transparency, such as by making available codes of practice and legal and ethical guidelines. The report states, "The presumption should be that everything should be available for public scrutiny unless it is in the public interest – not the police interest – to hold it back." This is echoed by the JIU who note that "As a general principle information should be freely available to everyone, except in very specific cases [e.g. investigation files]" (Joint Inspection Unit, 2011b, p. 8). In a separate report, the JIU state that publicly issuing investigation standards and procedures would effectively increase legitimacy and accountability among staff members. (Joint Inspection Unit, 2000).

There is nothing in either the UN or OSCE mandate specifically governing the release of generic information to staff, except insofar as necessary confidentiality must be maintained, particularly in investigations. The decision to disclose other non-operational information is in the purview of the oversight office alone. The UN publishes a number of documents on its website, including its internal investigation

[97] At the time of writing, proposals for including Heads of Mission within the disciplinary regime have been presented to the OSCE Permanent Council for consideration.

and audit manuals. These are a resource for staff to consult and describe the procedures of OIOS and the rules behind them. The OSCE publishes very little with regards to their oversight function, and their website contains just a handful of pages going into limited detail.

As noted by Stenning (1995b), however, the decision as to what non-operational information the oversight offices publishes can actually serve to undermine accountability, if seen more as an exercise in public relations. Thus far both the UN and OSCE oversight offices have refrained from any obvious propaganda in this regard and have issued mainly factual documents relating to their procedures. Nevertheless, given that the element of obligation is missing, the voluntary provision of information is not so much an accountability mechanism as simply good practice.

Due Process

A significant number of IGO staff will spend an entire career without directly encountering the internal oversight function. Many of those that do have cause to deal with oversight will only do so in the course of a routine audit, where the auditors will speak to a wider range of people to understand the processes involved. Indeed, just as most people's encounters with police will be on uniformed patrol, so most IGO staff will encounter the pro-active audit function, being the largest and most visible component of an oversight office. That leaves only a small number of staff who will come into direct contact with internal oversight's investigation function, whether as suspects, witnesses, victims, complainants or managers. It is these interactions with the oversight office that play a crucial part in the accountability and legitimacy of the office.

The investigation process offers accountability mechanisms to those affected by the investigation. This is embodied in the concept of due process, which effectively means giving the person under investigation the opportunity to learn of the case against them and to provide comment thereon before the investigation is finalised. Due process was recognised as an essential component of oversight work by the UN General Assembly in the OIOS founding mandate (1994, p. 5) which required the Secretary General to ensure "that procedures are also in place that protect individual

rights, the anonymity of staff members, due process for all parties concerned and fairness during any investigations".

Due process is also embodied in the OSCE mandate:

> "In carrying out investigations, Internal Oversight shall respect the rights of individual staff and mission members at all times. A staff or mission member who is the subject of an investigation shall be informed of the investigation, but Internal Oversight may exercise discretion in determining when this shall be done, with due regard for the security and the nature of evidence to be collected. In all cases, a staff member subject to an investigation shall be given the opportunity to review the findings of the investigation and respond to the findings before a final report is prepared." (OSCE, 2000, pp. 2-3).

The principle of due process is recognised universally among the internal oversight offices of the IGO community, and was also enshrined in the Conference of International Investigators' Uniform Guidelines for Investigations (Conference of International Investigators, 2009).

Due process permits the subjects of the investigation to comment on the case in question. Thus, they engage with the oversight office in a two-way accountability exercise. The oversight office investigates the suspect's role in a case, thereby requiring an account from them for their actions. Conversely, in compiling its report, the oversight office presents an account of its actions, inquiries, analysis and findings (and/or draft findings) to the accused. The precise method by which this is done varies across organisations but these processes provide a measure of transparency to those directly implicated in an investigation[98].

However, it is not just the subjects of investigations who receive a copy of the final investigation report. At the conclusion of a case, the investigation report will be issued to the managers of the staff members concerned, upto and including the level of Secretary General. This report is the output of the oversight office, and gives an account of their actions in the investigation. Accountability is therefore provided to the relevant sections of the staff population through the medium of the offices' reports.

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[98] Due process can also be seen as part of legal accountability, but is mentioned here as it is initially a matter between the oversight office and the accused person. Where due process has been improperly applied, it can be considered separately via external legal accountability mechanisms.

Overall, there are no direct formal accountability mechanisms to the staff as a corporate body. While the oversight office may elect to provide information to staff, this is a voluntary mechanism without any element of obligation. Separately, staff may make use of informal mechanisms through bypassing formal procedures and directly appealing to their member states, but this is an imperfect solution with its own risks and which may or may not elicit accountability. It is only on a case-by-case basis where the due process and reporting procedures provide formal accountability from the oversight office, but only to those elements of the community directly affected by the actions of the investigation office. Individual staff members can challenge the work of the oversight office either directly, or through the relevant legal processes[99], which are covered in the following section.

Legal Accountability

The task of the investigation function is to enforce breaches of the regulations, rules and instructions established by the IGO (primarily of a financial nature) and it is therefore important that it too is seen to adhere to the same regulatory framework. However, while legal accountability is often seen in terms of dealing with the abuse of power it is also a tool for testing the quality of investigations presented by the oversight office in accordance with legal provisions.

The potential consequences of adverse findings in an oversight investigation can in some cases be severe on the individual. It is therefore necessary to have in place accountability measures to ensure that someone who could potentially lose their job, reputation and residency has been treated fairly. Although an accused person may have the opportunity to challenge an oversight report through internal procedures, the outlet of appeal to an independent forum for challenging the work of internal oversight is important if the office is to be seen to be acting within its powers. In the UN, at the

[99] According to the procedural justice argument, the public are more likely to accept enforcement measures if the procedures used are perceived as fair, even if the end result is not necessarily in their favour. This hypothesis underlies the model of Process Oriented Policing (National Research Council, 2004). The authors note how the role of perceived fairness transcends racial and ethnic categories and draw on a previous study by Selznick (1969, p29) in noting the need for legitimacy to extend to the workplace, noting that "there is a demand that the rules be legitimate [...] in the way they are applied".. In the IGO there are few situations that require an emergency response by the oversight office (the main exception perhaps being UN sexual abuse cases). Most oversight actions are planned in advance and processes should therefore be thought through and fair. Reports are the output of oversight offices and this also gives them ample opportunity to explain their processes in each instance in a transparent manner. A report that fails to adequately address reasons for actions and findings must be seen as a failure by the office both in terms of substance and accountability.

time when OIOS was conceived, the GA had such independent scrutiny in mind when designing the mandate of OIOS (1994, p. 5), it was required that:

> "...disciplinary and/or jurisdictional proceedings are initiated without undue delay in cases where the Secretary-General considers it justified; such procedures shall include any necessary amendments to the Staff Regulations and Rules of the United Nations and to the disciplinary hearing procedures..."

The main external source of oversight in a national system would be an independent judiciary. In the IGO realm, the existence of a judicial review system varies depending on the IGO concerned.

The UN has several levels of legal oversight. The first is an internal legal review where it is decided if OIOS have collected sufficient evidence to lay charges of misconduct. If so, and if subsequently any administrative measures such as disciplinary action are imposed by management, there is an avenue of appeal to a two tier external tribunal system comprising the UN Dispute Tribunal and the UN Appeals Tribunal. The tribunals in question are a part of the UN Internal Justice System which was overhauled as of 1 July 2009 to provide a "new independent, professionalized and decentralized system of internal justice" (UN Secretary-General, 2010, p. 42) with tribunals being staffed by full-time judges.

The OSCE however has no equivalent legal oversight or tribunal system, but rather a system similar to the system formerly in use at the UN. OIO formulates its own findings upon which an internal disciplinary panel[100] may recommend appropriate sanctions after referral by the relevant manager. Only after the panel has considered the matter and any sanctions implemented by management is there any kind of external review against administrative decisions. This is conducted by an infrequently used mechanism, the Panel of Adjudicators[101]. Panel members are not required to be legally qualified but rather must "possess competence and experience" to decide on cases of non-observance of the OSCE regulatory framework (OSCE, 1998, para. 3).

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[100] OSCE Disciplinary Panels are appointed by management on an ad-hoc basis (the staff member under investigation may object to one appointee). The UN by contrast had a standing panel of volunteers for such cases under its previous justice system.

[101] A draft internal OSCE document suggests that the Panel of Adjudicators was established when under 200 staff were eligible for adjudication. That number is now approximately 3,000.

This usually leads to the appointment of diplomats to the Panel[102]. Thus, their review, while nominally independent, is not necessarily a professional legal decision as exists in the newly overhauled professional UN tribunal system.

One option for IGOs such as the OSCE without their own independent, professional justice system is to partake in an existing system, such as the one provided by ILOAT, the Administrative Tribunal of the International Labour Organisation. ILOAT also accepts membership from other international bodies who choose to submit to its jurisdiction, including a number of UN bodies. ILOAT was comprised of professional judges long before the UN followed this route. Thus far, however, the OSCE has not elected to join[103].

A benefit of belonging to a professional tribunal system is the accountability brought by a professional legal review that can also serve as a tool for assessing the quality of work undertaken by internal oversight and its compliance with internal rules and protocols. According to the judge of one international administrative tribunal (Tribunal Judge, 2012), legal deliberations take account of internal investigative procedures, and any breaches are commented upon. Furthermore, IGO investigators are usually expected to adhere to the professional codes of conduct embodied in the Uniform Guidelines for Investigators (Conference of International Investigators, 2009). Although not legally binding (Tribunal Judge, 2012), failure to adhere to these could still undermine the credibility of an investigation. OIOS state that they review all tribunal decisions involving their investigations in order to learn from mistakes and remedy failings (Lapointe, 2011).

However, there remains an accountability gap in that OIOS cannot directly be held to account even within the tribunal system. As noted on the section on independence, above, the Secretary-General has complained that in cases where OIOS are found to have acted incorrectly, it is he who must bear the consequences (normally financial). This is because it is the Secretary-General who is named as the respondent in tribunal cases, as per Article 2 (1) of the Statute of the United Nations Dispute Tribunal (UN

[102] Panel members are appointed for three-year terms. The equivalent former UN administrative tribunal had members appointed for four-year terms by the General Assembly.
[103] A study on the benefits of joining ILOAT was conducted by the OSCE in 2000, but no decision was taken to join the tribunal system. Conversations with those familiar with the matter suggest that the cost of joining ILOAT was a key consideration of the participating states in not pursuing membership.

General Assembly, 2009, p. 7). This applies even where the appealed decision was made by an operationally independent entity such as OIOS. This is contrary to the recommendation of the UN Panel tasked with overhauling the organisation's internal justice system, which included the specific recommendation that staff "personally answer for their acts and decisions and that the formal justice system entertain applications for the enforcement of individual financial accountability." (UN Redesign Panel, 2006, p. 25). Thus, OIOS can be criticised by the UN tribunals for any wrongdoing, but it does not have to bear any direct consequences[104]. Penalties are instead imposed upon the Secretary-General as the respondent. However, the Secretary-General's own suggestion that the tribunals surrender jurisdiction on OIOS matters would only further decrease the accountability of the office, and "would be tantamount to allowing [OIOS] to exercise power without accountability." (Ebrahim-Carstens, 2011, p. 5). Asked how the oversight agency could then be made accountable, the judge of one administrative tribunal advised that it is for the Chief Administrative Officer to address such issues with the Head of Internal Oversight (Tribunal Judge, 2012). However, this is a convoluted system and there is clearly room for enhancing the direct legal accountability of OIOS by, for instance, naming the Under-Secretary-General of OIOS as the respondent.

Separately, and in line with Patten's view of legal accountability, the conduct of oversight officials may also be legally examined. In one recent UN dispute tribunal case (2011) involving an internal OIOS personnel matter, the judge heavily criticised the conduct of certain OIOS officials. The only available remedy for the tribunal was under Article 10.8 of the tribunal statute whereby "The Dispute Tribunal may refer appropriate cases to the Secretary-General of the United Nations or the executive heads of separately administered United Nations funds and programmes for possible action to enforce accountability." The use of the word 'possible' highlights that while the matter can be raised, there is no mechanism to ensure proper executive action. In this particular case, the tribunal judgment proceeded to note that while it was an internal matter for the Secretary-General, it would be a matter of "regret" if the UN did not address the conduct of the officials concerned. At the time of writing, the officials referred to occupy the same posts in OIOS and regardless of the

[104] Tait (1997, p. 4) distinguishes this 'answerability' from 'accountability' in that the former is the part of accountability that does not bear any consequences associated with it.

appropriateness or otherwise of this state of affairs, the fact that the tribunal judgment (containing the names of the officials) has been made public can lead staff to question whether legal or internal accountability measures are properly applied.

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In summary, legal accountability assumes significant importance within the UN system. It has a legal infrastructure in place to hold the executive to account for the actions of internal oversight, but is unable to hold the office to account directly. While the tribunals may also comment upon abuse of powers by the internal oversight office, there is no direct means of addressing misconduct by oversight officials.

The OSCE is not subject to the jurisdiction of a professional tribunal system such as ILOAT, but instead operates in an ad-hoc way similar to the obsolete UN system. As with the UN there is no formal legal remedy for addressing misconduct by internal oversight, and no external body who can fulfil this task.

The handling of misconduct and complaints against staff is also the responsibility of the oversight office itself, and is covered further in the following section on internal accountability.

Internal Accountability

Compliance within internal rules is a matter for the internal oversight office itself, and accountability should be through a hierarchical chain of command via line management to the Head of Oversight.

In performing their work, managers may have to defer to the professional skills, expertise and judgment of their staff. This is particularly pertinent in the investigation function given that no Head of Oversight in the UN or OSCE (or indeed most other IGOs where investigation and audit are combined) has ever been a professional investigator. To date they have mostly come from an audit background, although early UN appointees were diplomats or administrators.

As part of their professional background, staff are expected to adhere to the guidance of their professional bodies. The former Head of Audit at the OSCE considers that the accountability of the oversight office includes accountability for adherence to the

standards of the relevant professional bodies (Rajaobelina, 2011). The professional standards most relevant to the investigation function include the Uniform Guidelines for Investigators (UGIs) of the Conference of International Investigators. Also likely to be relevant are the professional skills learned through professional investigation backgrounds, or through such bodies as the ACFE.

Both the UGI and ACFE professional guidelines for investigators (as well as the IIA guidelines for auditors) speak of the need for competence and integrity. These are essential for the credibility and legitimacy of the oversight office, and there therefore need to be systems in place to address misconduct and negligence. However, each of these professional guidelines is silent on the subject of accountability of individual investigators or auditors. Thus, internal accountability is currently a matter for each organisation to address, rather than an obligation enshrined in professional guidance.

The Patten report (1999) links together performance, objectives and internal accountability. Many employers have performance reviews for staff and this is also the case in most IGOs including the UN and OSCE. Accountability can thus be addressed through performance appraisals in which individual objectives align with departmental and organisational objectives. The UN Secretary-General echoes the Patten report in noting the importance of individual performance in overall accountability stating:

> "The critical linkage between institutional accountability and individual accountability is established through the workplans contained in the annual performance compacts for senior managers and the performance appraisal system for staff." (UN Secretary-General, 2010, p. 11).

In an investigation office, objectives should implicitly include the fulfilment of tasks with objectivity, fairness and integrity. This must include adherence to internal rules and protocols, an issue that has clearly affected credibility within the World Bank, according to Volcker (2007, p. 15) who noted that World Bank staff were questioning the "validity of [the oversight office's] procedures [and] its adherence to its own protocols." However, institutional integrity relies on individual integrity and beyond addressing this in the appraisal system, the Patten report (1999) noted the importance of an effective internal complaints mechanism. Neither the UN (OIOS_Official, 2011) nor the OSCE have systems in place for the recording complaints and incidents

involving internal oversight officials. The only official records are any formal disciplinary proceedings documented in staff members' personnel files, which are held in the Human Resources offices. Complaints are dealt with on an ad-hoc basis. While it may be argued that the oversight offices are too small to have such systems in place (particularly within the OSCE where oversight is centralised in one office), this argument is difficult to sustain if an oversight office collects information on misconduct elsewhere in the organisation. While oversight offices are generally small in size, staff turnover[105](and in the UN, disparate locations) can mean that complaints against staff can easily get lost or overlooked. The recent UN tribunal case (see legal accountability, above) where the judge heavily criticised the conduct of OIOS officials is a case in point. The alleged misconduct took place under the previous Under-Secretary-General, but the tribunal hearing occurred only after the current incumbent was appointed. A formal system of registering and addressing complaints against staff members would assist in managing the internal accountability of staff and, consequently, reputational risk and legitimacy.

In the UN system, another possibility exists for investigating complaints against OIOS. The external mechanism of the JIU has "the broadest powers of investigation in all matters having a bearing on the efficiency of the services and the proper use of funds" (UN General Assembly, 1976, p. 164). Indeed, the General Assembly specifically permit the JIU to conduct investigations of OIOS. In reality it conducts very little investigation work, employing only one investigator[106]. No equivalent external investigation system exists in the OSCE.

When questioned on internal accountability, one senior UN investigator (OIOS_Official, 2011) suggested that the requirement to declare conflicts of interests was one of the only ways in which investigators were accountable to the staff as a whole. However, as this is a matter of integrity and for internal use only, this is considered a matter for internal accountability. Both organisations require investigators to declare conflicts of interests, though given that investigations are

[105] Staff turnover is a recurring issue in the OSCE where, depending upon the grade, professional and director level staff may serve for a maximum of between four and seven years in post, and up to a combined maximum of ten years in the organisation. No such term limits apply to clerical level staff.
[106] Another area where the JIU envisage becoming involved in investigations is in relation to cases where the oversight office declines to investigate retaliation against whistle-blowers. The UN ethics office normally refers such cases, but in view of its operational independence, OIOS can elect whether or not to investigate the matter. See Joint Inspection Unit (2010a).

largely reactive, it can be easier to declare conflicts of interest on a case by case basis as they can be difficult to anticipate ahead of time.

Staff in both organisations are obliged to declare gifts above a certain value. In the UN, there is a gift register for declaring gifts received (although an examination of this in 2007 showed that just a handful of gifts were declared over several years in a major UN headquarter location, thus raising questions as to the efficacy of the system of enforcement). Furthermore, certain categories of staff are required to complete asset declarations. Thus far in the UN, this is largely restricted to senior staff plus staff in the ethics office and those with significant procurement responsibilities (UN Secretary-General, 2006b). It might be expected that this obligation would be extended to internal oversight staff, but this is not the case. No asset declarations are required in the OSCE.

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Overall, a measure of internal accountability is fulfilled through the staff appraisal system, but the proper recording of complaints is an area that remains weak or non-existent in internal oversight. There are also no formal systems for the proper recording and analysis of complaints.

Financial Accountability

Financial accountability is particularly important for oversight offices, given that they were established primarily to protect the financial interest of the organisation and its member states. After all, if they are going to hold others within their organisations to account for their effective and efficient use of resources, they must be seen to be doing so themselves.

The Patten report envisages the use of audit to enhance financial accountability within the police. In the IGO, given that internal oversight often comprises an audit function, such auditing would clearly be a matter for others. While the external auditors would be one mechanism, their focus is on the reliability of the financial records of the organisation as a whole. External audits do not normally measure efficiency or value for money, for example.

While financial audit is a retrospective exercise, assessing performance requires a comparison against planned objectives and available resources. The oversight office therefore also needs to be accountable for its planning and budget submissions. In the UN, the General Assembly has designated such scrutiny to the IAAC who assess the OIOS budget submission in light of the proposed work plan for the year ahead. This is consistent with the recommendation of the JIU (2011a, p. 7) that the resources of all investigation functions in UN agencies should be based on the recommendations of their respective audit/oversight committees. In the OSCE, the situation is less clear as the work plan is not normally finalised until after the budget is known, and even then it is not made available to the participating states. Therefore, nobody gets to consider the proposed budget in light of the agreed work plan. In 2011 for example, the oversight office's original proposal (which included a request for extra investigation resources) was moderated following internal discussions within the Secretariat. Subsequently, the budget was reduced again by the member states. Only afterwards, in early 2012 was the oversight plan agreed with the Secretary General. Therefore, the finalisation of the oversight office's annual plan has to take account of budget decisions beyond its control. Separately, there remain questions as to whether member states would even be interested in holding oversight accountable for its planning and performance, where one former member state representative (Diplomat_A, 2012) felt the budget presentation in itself was sufficient for the delegates' needs while another (Diplomat_B, 2012) felt that internal oversight could manage its own plans. Such views further call into question the ability or capacity of member states to hold the oversight office properly accountable for its planning and budget submissions.

Even in the UN where plans and budgets may be more thoroughly scrutinised at their inception, full accountability for budget submissions can only assessed retrospectively with an examination of results achieved, as measured against the objectives planned at the beginning of the year. In reality this does not always happen. Ironically, OIOS themselves commented on this situation as it affects the rest of the UN. They conclude that "although aspirational results are utilized to justify approval of budgets, the actual attainment or non-attainment of results is of no discernible consequence to subsequent resource allocation or other decision-making..." (UN Office of Internal Oversight Services, 2008, p. 2). If OIOS (or any other oversight office) hopes to lead by example, it clearly needs to be accountable for its prior use of resources.

UN member states should be able to require accountability from OIOS as to the fulfilment of its plan through the IAAC who are mandated to report to the General Assembly "on the effectiveness, efficiency and impact of the audit activities and other oversight functions of the Office of Internal Oversight Services" (UN General Assembly, 2007). However, while the IAAC has now issued three annual reports since its inception in 2008, none has contained a formal comparison of outputs to plans. Instead, the IAAC have commented on each annual plan and associated budget in advance, and then retrospectively commented on the efficiency and impact of OIOS without ever linking the two. This is not a full system of accountability and the IAAC appear to recognise this when stating in its 2010 annual report (UN Independent Audit Advisory Committee, 2010, p. 17) that while it has "responsibility for aspects of internal oversight and management's activities with regard to risk management, internal controls and financial reporting... this is only one side of the value/risk equation". They have thus proposed "that the Committee be empowered to review management's systems for accounting for performance results since this represents the value side of the value/risk equation." While this may assist the IAAC, it does not preclude a comparison of plans against results. An assessment of efficiency implies a comparison of outputs against resources and the fact that the IAAC has not reported on this remains a lacunae.

Similarly in the OSCE, the Audit Committee has full access to the records of internal oversight. Again, while it shall "Review and monitor the adequacy, efficiency and effectiveness" of oversight, there is no explicit reference to an examination of outputs to budgets or plans. While, there is no impediment to doing so, the reference to 'efficiency' is not sufficiently explicit in requiring that it is done routinely.

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The UN's IAAC provides an independent mechanism for scrutinising budget submissions, which is absent from the OSCE whose budget proposals also lack any coordination with its annual planning process. Both audit committees are nominally resourced, and there is an accountability gap in that while the audit committees should be holding internal oversight to account for its for performance against its annual plan, the fact that this scrutiny is only implied through the requirement to assess efficiency has meant that this has not been done as a matter of course.

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This chapter has attempted to answer one of the fundamental questions proposed by this thesis, i.e. the extent to which the investigation function is accountable. In doing so, an analytical assessment has been conducted of the accountability mechanisms identified through a bespoke framework based on policing principles. It has found that while various accountability mechanisms exist, there remain a number of lacunae in the formal mechanisms, notwithstanding the multiplicity of bodies with powers of scrutiny. The political accountability relationships in particular are impeded by the inability of the member states to undertake proactive scrutiny of internal oversight through a lack of both resources and powers of compulsion. While this thesis recognises that there must be an element of obligation to ensure true accountability, the political accountability relationships could nevertheless be more effective if the member states themselves taking a more pro-active interest in oversight. Other gaps exist in each of the other areas examined, and some can be addressed by the oversight office itself (e.g. internal accountability), while others (e.g. legal accountability) may require legislative changes e.g. to ensure that OIOS (i.e. not the Secretary-General) is accountable for its own actions. In accountability to the staff community, voluntary and informal accountability mechanisms exist but these are an unreliable method of holding the office to account and there needs to be an element of obligation in each of the accountability mechanisms if they are to be considered sufficient and credible.

In summarising and concluding this thesis, the next chapter seeks to provide solutions to address the lacunae in oversight mechanisms. It finds that many of the structures are largely in place, and that if the member states were so inclined, they would be able to greatly enhance the accountability of internal oversight, and investigation in particular, both by making better use of existing mechanisms as well as by making a number of enhancements and revisions to prevailing mandates.

Chapter 8 – Conclusions

Despite the ever-increasing number of International Governmental Organisations (IGOs) in existence, they remain unique sovereign entities. They are public bodies established by member states, each with their own interests in the objectives and performance of the organisation. As the number, expense and profile of IGOs has increased, so has awareness of the need for effective internal governance, particularly from the point of view of the member states contributing the highest financial resources. These states are often those with western-style democratic values, with matching governance expectations and who impose common sets of rules in an attempt to ensure the efficient use of funds. Enforcing these rules can nevertheless be a challenge among a disparate body of staff, whose diverse cultural backgrounds and expectations can mean that mismanagement and misconduct in an IGO is as prevalent as in any other environment. The current economic downturn has highlighted just how much member states are looking to trim budgets, and this too has implications for governance where economic circumstances present a higher risk than ever for fraudulent activity[107]. The investigation function is a tool for addressing any resultant misconduct. Often working alongside the audit function as part of a holistic internal oversight office, investigation is tasked with holding the rest of the organisation accountable for the management of its resources. The investigation function is a component of accountability, and must in turn be accountable itself.

The aim of this thesis has been the consideration of the extent to which the investigation of financial misconduct within the IGO may be considered as policing, and assessing the accountability mechanisms applicable thereto. It has achieved this through an in-depth examination of the internal oversight offices – and specifically the investigation functions – of two IGOs in particular, the UN and the OSCE, with a view to facilitating the understanding of internal policing across the sector more broadly. The UN's office is the Office of Internal Oversight Services (OIOS) and the OSCE employs the similarly named Office of Internal Oversight (OIO).

[107] The former head of the UK Serious Fraud Office, (Wardle, 2009) recounted how one barrister related that he had not finished working on frauds resulting from the previous economic downturn eight years previously.

In assessing how this thesis has met its objectives, this chapter begins by commenting on the research methodology and pointing towards areas which could be taken forward in further research. It proceeds to condense the arguments put forward in this thesis, beginning with a review of the oversight office and repeats the assertion that it should be seen as a form of policing which shares important commonalities with state law enforcement. This is largely because of its autonomy, derived from the sovereign characteristics of the IGO in which it operates. This has ramifications for the accountability relationships to which the office is subject, and having been aligned with public sector policing, these relationships may consequently be viewed within a policing accountability framework, using a model based on democratic policing structures but adapted to the unique habitat of the IGO. The chapter recapitulates the assessment of the accountability mechanisms in the light of this framework.

Subsequently, in concluding that the oversight office can be considered first and foremost as an internal policing function, the chapter highlights the various accountability lacunae identified through the policing framework and proceeds to suggest ways of addressing these voids. In closing, the chapter restates its contribution to the literature on oversight offices and reflects on the role of those who ultimately rely on the internal oversight office, i.e. the community of member states.

Notes on Research and Areas for Further Study

It was evident early on in the research for this thesis that a strong argument could be made for describing the investigation function of the internal oversight office in policing terms. Various academics (Bayley & Shearing, 1996; Rawlings, 2008; Reiner, 2010) describe what is meant by the terms 'policing' and the work of the investigation office fell relatively easily into these definitions. The main revelation during the course of the research was the ease with which the IGO audit function, hitherto rarely thought of in policing terms, could also be seen as a form of policing, and its patrol analogy could even be considered the primary policing service to the secondary policing objective of investigation.

This insight caused the tables to be turned in terms of the way the audit and investigation functions are viewed. The terms 'oversight' and 'audit' have been

largely interchangeable in the IGO context, perpetuated by the fact that almost all multifunctional oversight offices are run by audit – rather than investigation – professionals. However, the intention of this research was not so much to suggest that auditors submit to policing ideology, but rather to highlight that an accountability framework based on policing standards can be of benefit across the oversight office. Investigation accountability insofar as it had been considered at all, has hitherto followed audit strictures, at least in those offices where the two disciplines are combined. Yet, while auditors in the IGO environment have engaged in frequent debates about independence and accountability, the research for this thesis has not identified any formal audit accountability frameworks by which the IGO oversight office has been assessed. Others may wish to pursue the absence of a conceptual IGO audit framework further, and indeed propose their own models.

This thesis has used the aspirational accountability framework proffered by the Independent Commission on Policing for Northern Ireland (the Patten report) as a foundation for proposing a bespoke model for the IGO environment. The aim of utilising such a model is not to establish accountability structures according to democratic values, but rather to provide a framework by which accountability relationships can be identified, assessed and improved. For example, this thesis acknowledges the absence of democratic structures in the IGO itself, and in particular the lack of formal accountability to the staff population under the authority of the oversight office. Nevertheless the framework incorporates a community component (albeit with terminology reflecting the IGO environment) in recognition of the relationship that nonetheless exists between the staff and the oversight office. This allows for an assessment of formal and informal accountability mechanisms, or indeed the absence thereof.

One of the strengths of applying this policing approach was in helping to identify a number of gaps in oversight accountability, above and beyond those described in other literature, including in a report prepared by the UN's external oversight mechanism, the Joint Inspection Unit ('JIU', 2006) on oversight lacunae in the UN system. It is therefore hoped that by applying a comprehensive framework derived from the demanding world of democratic policing, this may serve investigators and auditors alike in assessing accountability in the oversight office overall.

The alignment of the oversight office alongside law enforcement agencies relies on the conceptualisation of IGOs as sovereign entities with parallels to nation states. While pointing to features that facilitate such a conceptualisation, this thesis stops short of proposing that the IGO should be considered on equal terms with nation states, as this would be (i) overly simplistic; (ii) overly ambitious; and, (iii) outside the scope of this research. In particular, some may also find fault with the concept of the staff 'community', which while valid in policing terms, is an artificial one in nation state constructs, forming both the IGO population and its government executive structure simultaneously. Conversely, in taking the view that internal oversight offices should not be directly compared with the in-house investigation units of commercial firms, this leaves open a potential area for study as to the nature of policing and accountability of the oversight office's private sector counterparts. Separately, it may be argued that other hybrid sub-categories of policing are beginning to emerge, i.e. the internal policing of state institutions. Such a role has been adopted by the NHS Counter-Fraud service in the UK, which takes a corporate policing role and applies it within the public sector. This area remains unexamined in this thesis but may also merit further research and comparison with IGO policing.

There remain significant gaps in the academic literature on IGO internal oversight offices. In historic terms, the development of these offices is a recent phenomenon and the absence of any scholarly attention must be considered in this context. That which has been referred to in the methodology chapter is both sparse and, insofar as it exists, largely descriptive rather than analytical. This thesis has relied substantially on professional (rather than academic) literature and in particular the various JIU reports in compiling this thesis, notably its recent studies on UN oversight and accountability. However, while many of the principles described in these reports are applicable more widely, the fact that these reports are very much geared towards the UN system alone only serves to highlight the relative absence of literature on the OSCE, and its internal governance in particular.

While the literature has been biased towards the UN, the author's current employment, and consequently his professional observations, has been correspondingly biased towards the OSCE. This has been balanced to a certain extent by the prior recollections of the author in working for the UN, supplemented by more recent

interviews and discussions with serving UN officials. However, the foundation of the research into the independence and accountability of the respective oversight offices is derived from the mandates and texts of the IGOs directly and this has facilitated an objective theoretical analysis, augmented by empirical research.

This points to another limitation of this thesis, which is that the focus has been on two IGOs in particular. The oversight offices of the UN and the OSCE are similar in structure both between themselves and a number of other IGOs. However, not all IGOs retain a multifunctional oversight office, with the EU and some of the multilateral development banks, for instance, preferring a dedicated investigation office distinct from their audit departments. This does not negate the conclusions of this thesis, and the general principles of policing and accountability mechanisms in particular. However, in any study where a limited number of actors are examined in detail, the results should always be adapted to individual circumstances. In this vein others may wish to take up the challenge of studying the accountability aspects of the IGOs with separate investigation offices in more detail.

Having conducted this analysis in particular as it concerns the UN and OSCE, there follows an overview of the areas that this thesis has covered.

Internal Oversight as a Policing Function

The primary task of the internal oversight office is maintaining good internal financial governance in accordance with the wishes of the IGO's member states. The investigation component of the oversight office is mandated to conduct inquiries into fraud, corruption and other misconduct. Investigating breaches of rules as a means of maintaining social order falls within the definitions of policing proffered by various academics (Bayley & Shearing, 1996; Rawlings, 2008; Reiner, 2010). While the UN oversight office in particular has evolved to the point where financial misconduct no longer dominates its work, it remains the primary mechanism for addressing such matters.

Policing is nevertheless a sufficiently broad term that many tasks performed by a variety of agencies can be classified under this heading. While some bodies conduct elements of policing (such as receiving or forwarding complaints), the investigation function of the oversight office conducts a full range of policing tasks in pursuance of

detecting and investigating internal crime (misconduct) using methods and techniques familiar to police investigators.

Investigation is but one part of the policing jigsaw, however. Notwithstanding the plural policing evident through the uniformed security function of the IGO, the oversight office itself may be considered as a policing agency of which investigation is but a part. Audit is the main function of the multi-disciplinary oversight office, and its activities in ensuring controls are in place to prevent losses are consistent with the policing function of preventing crime. Such an assertion will encounter resistance among some auditors who can be keen to stress their distinctiveness from any form of policing or investigation. Indeed, given that in the IGO, investigation arose from the audit function itself (in much the same way as detective policing followed patrol policing) this can perpetuate the notion that audit concepts are of primary importance in the oversight office, particularly as the mandates and language of various oversight bodies remain rooted in auditing terminology. Nevertheless, by comparing audit with notions of 'soft policing', this thesis proposes that audit and investigation mirror the primary police patrol and secondary police detection/response functions respectively.

IGOs are not the only entities with dedicated internal investigation functions. Many private corporations also employ compliance officers or corporate investigators. This may invite superficial comparisons with the IGO given that both are employment-based organisations prone to similar types of misconduct and able to impose similar administrative sanctions. This thesis rejects such an approach and instead considers that an understanding of the policing characteristics – and indeed the accountability – of the oversight office may be better understood through an appreciation of the overall IGO environment. The IGO is unique in being established by a conglomerate of sovereign member states, operating for their benefit collectively rather than individually. This diffusion of authority, reinforced by a system of sovereignty and territorial integrity commonly afforded through diplomatic immunities, allows the IGO to administer itself autonomously. This protects internal oversight from interference by any national authority, including the one(s) in which it is physically located.

The effect of these sovereignty issues on internal policing is profound. Corporate investigators may be regulated by local laws (e.g. employment or privacy laws) in the conduct of their investigations and may have to surrender complete control of a case if

the authorities intervene. Internal oversight offices, by contrast, have the ability to conduct internal inquiries and even employ intrusive investigation methods across the IGOs' offices globally without fear of intervention or constraint by individual national authorities: oversight offices effectively *are* the national authority within the IGOs' territory. This feature effectively constrains comparisons with private sector policing. Conversely, to class IGOs alongside nation states and the oversight office as body equivalent to a national law enforcement body would overlook the oversight offices' lack of criminal powers of compulsion. Rather, IGOs have characteristics of both public and private sectors, with investigative powers akin to those in a commercial organisation, but sovereign jurisdiction that permits a comparison with state level policing structures. These hybrid characteristics afford the IGO investigation function a unique place in the policing spectrum.

The element of sovereignty is also central to the debate on policing accountability, which is another important factor in facilitating a comparison with national policing models. The private sector accountability mechanisms identified by Stenning (2000) are largely irrelevant in the IGO, due to the inapplicability of market forces and host country regulations. Instead, public accountability criteria are more appropriate and reinforce the comparison with state level policing.

Further, by reference to Mawby's (1990; 2008) framework of legitimacy, structure and function, the setup of internal oversight identifies more closely with policing conducted according to the colonial model. The western dominated political elites bestow legitimacy upon the oversight office in pursuance of their own agenda. In terms of structure and function, the largely centralised oversight office in turn is tasked with ensuring financial governance requirements are enforced among a multi-cultural staff population. Due process and fairness are subservient to the primary concern of protecting member states' financial contributions. Staff concerns are of little interest to these states who established the oversight office[108].

[108] The primary importance of financial management over staff concerns was illustrated by a recent suggestion by one delegate to the OSCE that staff should be willing to take a pay cut. If implemented, this would contravene an agreement previously established by the participating states whereby OSCE salary scales are linked to those of the UN.

Accountability of Oversight Offices

Having established internal oversight as a policing function, it follows that the oversight office's accountability mechanisms may be assessed through a police accountability framework.

This thesis has taken the policing accountability framework proffered by the Independent Commission on Policing for Northern Ireland (the Patten report) as a foundation for proposing a bespoke model for the IGO environment. This has been modified to suit the non-democratic governance setting inherent in the IGO. Accordingly, the thesis proposes that accountability relationships can comprehensively be assessed by reference to political accountability (to the member states); hierarchical accountability (to the Secretaries-General, or equivalent, of the IGOs); community accountability (to the staff that are policed by the oversight office); legal accountability (to external legal review); internal accountability (within the oversight office) and financial accountability (for the use of resources).

In considering each of these categories, it is noted that the operational independence of internal oversight in the UN is particularly strong, but less so in the OSCE where the oversight office is a component of the Office of the Secretary General. In both organisations, the political and hierarchical accountability relationships are of crucial importance to the oversight office, consistent with the relationships in colonial policing, and these can have the most immediate impact on the ability of the oversight office to conduct its business with the appropriate support and resources.

The political accountability relationship remains the most important for the sustainability of any oversight office. It is after all the member states that can alter the mandate of the office, change its resource allocation or even shut it down altogether as the case of the UN Procurement Task Force illustrates. However, the relationship with the legislature can also be a convoluted one, given that internal oversight is by definition an internal function, and yet the member states require accountability over and above that provided to the executive management of the organisation. As the entities who establish, fund, and support the IGO, it is nevertheless in their purview to require accountability as they see fit, but the multiplicity of bodies engaged by them to scrutinise oversight can confuse matters further and this is the one single area where significant accountability gaps are seen to occur. In neither organisation studied do

the legislative committees and sub-committees have full rights of access to internal oversight, and nor are they able to devote sufficient resources to proper scrutiny in any event. This has been addressed to some extent by the establishment of audit committees with additional powers of access to information in support of their advisory functions, which has certainly brought professional review to internal oversight. However, audit committees can also suffer from a lack of resources, being composed only of volunteers serving concurrently in other senior roles, which inevitably limits the time that can be spent holding oversight to account.

There also remains no way for the member states to hold oversight accountable for operational outputs to ensure that the office has conducted its investigations properly and efficiently. This is arguably not needed given that operational matters are a matter for the internal managers of the organisation, and in the UN, member states require details of individual reports issued, albeit in summary form. However, while OIOS is required to publish a description of all reports, these are sufficiently vague as to be of little practical use. Full investigation reports are only released at the discretion of OIOS itself, which is rarely done in the interests of staff confidentiality. Certainly, the fact that the US publishes all OIOS reports can potentially act to make OIOS less accountable to member states given that it has discretion over what to release, and may be wary in releasing investigation reports that will reach a global audience. However, not all member states seem interested in holding OIOS to account as seen by the fact that (US excepted) only three requests were made for OIOS reports in 2011, thus suggesting that routine scrutiny of the office is not a priority. In the OSCE, the mandate gives an element of discretion in what may be reported to participating states.

The hierarchical accountability relationship to the Secretaries-General (or equivalent) is also crucial to any oversight office. Notwithstanding that internal oversight may ultimately be accountable to the member states, its functional objective is to assist the executive in its management responsibilities. Internal oversight is but one weapon (albeit a major one) in management's armoury, and it is mandated to assist it by issuing reports and recommendations. Any executive action resulting therefrom is in the purview of IGO management itself. Thus, the provision of operational reports should be sufficient to fulfil oversights' accountability obligations to management providing they are of sufficient relevance and quality (which in turn relies on the

proper application of internal and legal accountability). Assuming this is so, there is little need for the operational independence of internal oversight to be compromised, and this remains very much intact within the UN. By contrast, operational independence is not mentioned in the mandate of the OSCE oversight office, which is structurally a part of the Office of the Secretary General. Indeed, the Secretary General may intervene in planning issues and request investigations. While this is distinct from interfering in the conduct of an investigation, the fact that the oversight mandate is silent on this issue leaves the matter open to interpretation and is thus a potential threat to the office's operational independence. It does however mean that the Secretary General is able to hold oversight fully accountable for its performance. Separately, the fact that the audit committee has full rights of access to the OSCE internal oversight office and is able to report undue interference to the legislature does provide a counterbalance to the powers of the Secretary General.

Accountability to the staff community is not considered to be a key relationship from the point of view of the member states. While there is no obligation to provide information to the staff, it nevertheless remains a key constituent that the oversight office would be unwise to ignore if it seeks support beyond just the implicit consent inherent through staff members' terms and conditions of employment. This relies at an operational level on the conduct of professional investigations and the application of proper and transparent due process procedures culminating in a clear and objective investigation report. The provision of such reports not only to the staff member concerned, but also to the relevant staff managers tasked with taking resultant action, ensures an element of accountability to the affected parts of the community, but not to the staff population as a whole.

Sometimes it takes an independent legal review to highlight difficulties either with regards to the quality of casework, or the conduct of investigation staff. It can be argued that there is no need to implement a formal system of independent legal review given that proceedings are administrative, rather than legal, in nature. After all, the implications for civil liberties are greatly reduced compared with a national policing system as investigative powers are less intrusive and sanctions (culminating in dismissal) less serious than for a criminal proceedings in a sovereign state. However, such an argument ignores the fact that cases do not have to be proved to a criminal

standard of proof. This again brings attention back to the sovereign nature of the IGO. Administrative proceedings within a commercial organisation may be subject to external employment law, but this does not apply in the IGO, and it is therefore necessary to have an internal system that can deal with disputes impartially. Further, the professionalisation of the investigation function merits a professionalised system of legal scrutiny. This need has been acknowledged in the UN, which now has its own independent and binding justice tribunal system. This system is not flawless, however. In exercising operational independence, OIOS should be held directly accountable for its own actions but this does not happen. Instead the Secretary-General is held to account for the actions of OIOS, even though he has no control over its operational decisions. OIOS can only be held to account indirectly via the Secretary-General himself. This is neither straightforward nor transparent. The OSCE does not have a professional justice system, and instead relies on an antiquated system of peer review and an infrequently used Panel of Adjudicators selected largely from a pool of high-ranking diplomats. Consequently the investigation office may not always be held accountable to the highest legal standards.

High legal standards rely on high internal standards. Internal accountability requires the application of professionalism and integrity within the oversight office if it wishes to sustain credibility and legitimacy with external stakeholders. This begins with proper quality control of all investigations (including assurance that due process is applied properly), which relies on experienced managers holding individual investigators accountable for their actions. Both organisations have functioning staff appraisal systems, which are a key element of individual and institutional accountability, but neither organisation has in place effective mechanisms for dealing with complaints of misconduct by oversight officials.

Finally, financial accountability is critical to both the independence and credibility of the oversight office from the point of view of being able to requisition the resources it needs and in terms of demonstrating how those resources have been effectively used. Unlike other forms of accountability, which may incorporate at least some operational aspects, financial accountability is administrative in nature and is an inherent component of hierarchical and/or political accountability. In order for it to be effective, it relies on oversight planning being properly co-ordinated with budget

setting. The planning and proposed budget of the UN's oversight office is independently reviewed by an independent audit committee, but separating the two components, as happens in the OSCE, is neither conducive to governance or accountability. Financial accountability also relies on thorough independent retrospective scrutiny of outputs against plans in order to assess whether the oversight office performed efficiently and effectively. However, there is no formal comparison of outputs to plans in either organisation which points to a lack of accountability in this regard.

Conclusions

International Governmental Organisations are sovereign entities, strongly influenced by a political elite of member states displaying western democratic ideologies who establish internal oversight offices to protect their financial interests. The investigation function may be considered as the reactive policing agency within the IGO's sovereign environment. The policing parallels are borne out by reference to the literature on policing; an assessment of the features of the oversight office with regards to policing legitimacy, structure and function; and by reference to the practices of the investigation office. While the investigation function may have a mandate to examine a wide range of misconduct and notwithstanding that it operates in a plural policing environment (encompassing for example the security function), the oversight investigation function retains primacy in policing the IGO staff population in matters of financial misconduct. Even within the oversight office, an element of plural policing is evident through the work of the internal audit function whose proactive focus on loss prevention amounts to a patrol policing function.

The investigation office nevertheless exercises full policing authority in matters of fraud, corruption and other financial crime within the IGO's sovereign space, and is immune from external interference. This feature aligns it with national policing agencies, and in particular those where policing is imposed by an external political elite upon an indigenous population, as typified by a colonial policing system. This affords a certain irony given that the oversight office is established to ensure a governance regime based on western democratic values. The irony is multiplied when the IGO concerned has the objective of enhancing democratic governance and accountability within its individual member states, and this may not go unnoticed

among the staff population of the IGO. As one OIOS official put it, "everyone wants accountability, but not for themselves" (Andersen & Sending, 2011, p. 23).

A public sector policing accountability framework can be an appropriate method for identifying and assessing the accountability of the oversight office as a whole, and the investigation function in particular. Indeed, the applicability of a public framework (and the corresponding inapplicability of a private sector policing accountability framework) to internal oversight further reinforces the parallels with nation state policing. While this thesis uses a public accountability frameworks derived from democratic policing models, it is not proposed that IGOs should change their governance system to accommodate democratic principles. Rather, a democratic framework such as that advanced herein provides a comprehensive basis to assess the strengths and weaknesses of the oversight office's accountability mechanisms. This framework provides for political; hierarchical; community; legal; internal; and, financial forms of accountability. As is consistent with accountability in the colonial-style policing model, the first two of these are key accountability relationships which the oversight office is engaged in, with least importance afforded to the relationship with the staff community (which would assume major importance in democratic policing).

All accountability relationships are ultimately derived from the rules, policies and structures established by the member states themselves. The member states are the ultimate benefactors of power and legitimacy to the oversight office, and all other relationships and mechanisms are subservient to their requirements. The staff population of the IGO exist to service the member states' objectives, and not the other way around as would be the case in a democratic context. Accordingly, staff interests assume only minor importance, and the staff population is unable to collectively demand formal accountability from the internal oversight office. Nevertheless, the oversight office should not ignore the views of the multi-cultural staff population if it seeks its legitimacy and support.

With the exception of the staff population, formal accountability mechanisms do exist under each of the other framework headings, but their effectiveness varies across subject matter and IGOs, leading to multiple accountability lacunae. For instance, there exist deficiencies in legal accountability in both the UN (where internal oversight

cannot be held directly accountable by the tribunals) and the OSCE (which has no professional legal accountability system); in insufficient mechanisms for internal accountability including the recording of complaints against staff; and in the absence of financial scrutiny throughout the budget cycles.

The member states themselves retain the power to establish, modify or withdraw any of the relationships and mechanisms by which the oversight offices provide accountability. This includes the relationship with the Secretaries-General, who administer the organisation on behalf of the member states, and who in turn internal oversight offices are mandated to assist. In the UN, while operational independence is strong, the Secretary-General's capacity to demand accountability from the oversight office (including in planning, performance accounting and budgeting matters, for instance) is correspondingly weak. Obversely, in the OSCE where the oversight office is structurally positioned within the Office of the Secretary General, accountability can be more easily demanded but at the potential expense of independence.

There are inherent tensions in the member states establishing an internal oversight office to assist the internal management of the IGO, while simultaneously demanding accountability themselves. Even within the legislative structures alone, the multiplicity of legislative bodies tasked with scrutiny over the oversight office means that internal oversight is beholden to multiple masters. OIOS is ultimately accountable to the UN General Assembly (GA), through both a committee and a sub-committee, which means there are three layers of legislative accountability alone. The plurality of bodies is also evident in the OSCE, although to a lesser degree with the Permanent Council allocating responsibilities to the Advisory Committee on Management and Finance (ACMF). Despite this situation, there remain deficiencies in accountability to the member states, who remain unable to compel the production of planning, policy and performance information from the oversight bodies, and have no facility to measure outputs produced against resources provided.

Despite these oversight lacunae, the UN has been more responsive than the OSCE in matters of accountability and threats to the independence of the internal oversight office. The UN General Assembly has issued various resolutions enhancing the independence and accountability of OIOS even if this has been done in a piecemeal fashion. These have included changes to the reporting lines, awarding budgetary

scrutiny to the audit committee and even implementing a professional internal justice system. In contrast, the OSCE has made just one major change, which was to institute an audit committee. In all other respects, the accountability of the OSCE oversight office is based on its founding mandate from 2000 and it is largely in the same position as OIOS was prior to these reforms. The oversight offices are, however, just one component of accountability, and this is perceived as lacking in the OSCE more broadly. One NGO, The One World Trust, surveyed a number of IGOs in 2007 (Lloyd, et al., 2007) and 2008 (Lloyd, et al., 2008) and found the OSCE to be the second least accountable IGO among twenty surveyed, coming behind IGOs such as the African Union[109]. Changes and improvements to internal accountability are ultimately prompted by the member states, and in particular by the largest financial contributors in response to political and economic conditions. The US Government in particular claims credit for various UN reforms, and its Government Accountability Office can act as a barometer of its relative interest in IGOs. At the time of writing, its website had listed 286 reports on the UN, and none on the OSCE[110].

However, the UN is a high budget and high profile organisation and has been afflicted by high profile scandals that have prompted changes in the way it conducts its business. Indeed, it is notable that each of these changes took place after the Oil for Food scandal, and prior to this, the UN General Assembly seemed content to leave the details of the OIOS mandate to the Secretary-General himself, as seen by the OIOS founding mandate (UN General Assembly, 1994, p. 5) which essentially left the Secretary-General (1994, p. 6) to specify what OIOS should report to the General Assembly. By contrast, the OSCE has a miniscule budget and is relatively unknown outside its geographic area of operations (and even has a low media profile in many of its own member states). Thus far, it has not had the budget, the scandals or the scrutiny of the UN.

Changing mandates is only one way of addressing accountability gaps. The other way is for the legislative bodies to take more of an active routine interest in the work of internal oversight, but as the lack of reports on investigation by the General Assembly

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[109] The Global Accountability Survey was conducted in 2003 and 2006-2008. However, the 2003 and 2006 reports do not contain sufficient comparative information to compare the IGOs' overall accountability ratings with those specified in the 2007 and 2008 reports.

[110] The OSCE is only mentioned within reports on thematic topics, rather than a subject in itself. For further details, see the GAO website, http://www.gao.gov/browse/a-z .

and its committees suggests, such scrutiny is at best half-hearted in the UN. Member states do not devote the necessary resources to do justice to holding the oversight office to proper account. Rather than undertake more active scrutiny themselves, member states implement new procedures in response to scandals.

The OSCE too suffers from a lack of proactive scrutiny. Only the participating states can address this shortcoming, but in addition they can take measures to enhance the operational independence and accountability of the oversight office through changes to its mandate. Admittedly this would not be easy, with any changes requiring consensus among all 56 states but making such a collective effort on their own initiative would be preferable to having a high profile case to concentrate the minds. The OSCE may not enjoy the same media profile as the UN or other IGOs (such as the EU, where the internal fraud body, OLAF, was formed in response to a corruption scandal afflicting the EU Commission) but this is no defence against major scandals. Indeed, the participating states would do well to observe events afflicting other more obscure IGOs such as the technocratic World Intellectual Property Organization (WIPO). The case of its former chief executive of illustrates the sudden scrutiny that a lesser known agency can attract when high profile allegations of fraud arise. Just as the UN responded to Oil for Food with changes to the OIOS mandate, so the WIPO legislative body responded to the misconduct of its chief executive by strengthening the organisation's investigation mandate and reporting modalities particularly as regards to senior officials (World Intellectual Property Organization, 2010).

This should act as a salutary tale to those IGOs who do not otherwise give thought to the need for maintaining and enhancing governance and accountability within their organisations. According to the adage, "A truly wise man learns from the mistakes of others".

Closing the Accountability Gaps

Having identified a number of lacunae, this thesis observes that not all of these are structural defects in the sense that accountability *cannot* be demanded. As suggested above, some of these matters can be addressed by the simple act of the relevant bodies taking more of an active interest in the work of internal oversight. Other accountability gaps are within the purview of the oversight office to address.

Certainly, a number of oversight lacunae may be addressed without any significant restructuring of the IGOs' respective accountability systems.

Internal accountability is the easiest matter to resolve. While the staff appraisal system provides formal accountability for all staff, the thesis has observed that there are weaknesses in handling issues of staff integrity issues in both the UN and OSCE. If the oversight office wishes to take internal accountability seriously, it could begin by reflecting, or even surpassing, the accountability aspirations it seeks from others, such as requiring internal conflict of interest declarations and/or asset declarations. Furthermore, complaints of misconduct against oversight officials need to assume the highest importance, and there is no reason why a complaint register should not be maintained, either internally or even by an alternative mechanism where available, such as an ethics office, or in the case of the UN, the JIU. Where the oversight office does not have the capacity to handle internal investigations, these could be referred to the JIU or to the investigation office of another IGO pursuant to a memorandum of understanding.

Community accountability can similarly be enhanced by proactivity on the part of the oversight office. The UN already publishes its internal practices and procedures, and the OSCE would do well to follow this lead. Engaging with the staff and its representatives is another way of keeping the staff population informed of investigative activities. The danger with voluntary accountability is that where the element of obligation is missing, such activity can easily descend into public relations and propaganda exercises unless properly monitored.

Financial accountability is more complicated. In the OSCE, there is a disconnection between planning and budgeting. If the oversight office were to draft its plan earlier in the budget cycle and present it to the member states, this would assist them in budget discussions. However, this would potentially compromise the office's independence and a better solution would be to adopt the UN's solution of awarding budget scrutiny to independent review by the audit committee.

The aspect of legal accountability is not within the purview of the oversight office to address directly, but resolving the lacunae, at least in the UN, is a relatively straightforward matter. The current system whereby the Secretary-General is named

as the respondent in oversight cases inhibits the ability of the tribunal to hold internal oversight directly to account. A simple change by the General Assembly to the tribunal rules would see the oversight office named as the respondent and have to directly bear the consequences for any failures on its part. In agencies such as the OSCE that do not have the resources to implement a professional justice system, consideration could be given to joining an established tribunal system, such as the tribunal of the International Labour Organization (ILOAT). Separately, in cases where legal scrutiny uncovers a prima-facie case of misconduct within the oversight office, accountability would be enhanced by automatic referral to an external investigation mechanism, whether directly or via the Secretary-General as with other complaints against oversight officials (see above).

Addressing shortcomings in hierarchical accountability becomes slightly more complicated. Operational independence and accountability is strong in the UN. However, other than receiving operational reports, the Secretary-General has little authority to demand information from OIOS. This would not be a problem if other bodies had the ability to compel such information, but they currently do not. A solution would be to invest powers of compulsion in an external structure such as the audit committee, which currently relies on voluntary cooperation from OIOS. Such powers have already been vested in the audit committee of the OSCE, even though its Secretary General can already demand accountability as a consequence of the oversight office being under his direct auspices. However, this does mean that operational independence can be compromised and changing this would require the governing body, the Permanent Council, to implement changes to the oversight mandate.

In terms of political accountability, there are multiple mechanisms for oversight accountability, but multiple gaps as well. While not every legislative committee has full rights of access to information, they do not in any event fully utilise their existing powers of scrutiny. On the other hand, pro-active accountability would involve committing significant resources to the scrutiny of oversight. However, there would appear to be scope to rationalise the accountability process to economise on the number of bodies demanding accountability.

Indeed, this thesis had referred a number of times to one mechanism in particular that can be used to ensure effective accountability of oversight offices, especially in the areas of political and financial accountability. These are the audit committees. While other mechanisms such as the JIU[111] may take an active interest in oversight matters they nevertheless undertake ad-hoc thematic inspections rather than routine operational scrutiny. Audit committees by contrast are active in many IGOs and are dedicated to examining oversight matters.

Having audit committees adopt a more pro-active role in budgetary and operational matters would be within their existing terms of reference. They would not need an enhanced mandate to enact further scrutiny of oversight planning and budgeting (both in advance and retrospectively), or to engage with other stakeholders such as the staff committees, which would also strengthen community engagement. The committees could also be asked to examine operational decision-making in investigations if needed. The independence of the committee would help to surmount the challenges of maintaining appropriate confidentiality in reviewing investigation matters.

Just as internal oversight has evolved beyond audit alone, so should the audit committee instead be seen in terms of an 'oversight committee', as some IGOs are starting to recognise. This would give due cognisance to the fact that investigation is also a major component of internal oversight. To achieve maximum impact, the mandates of the committee may have to be fortified. For example, its powers of access to information need strengthening in the UN where it relies on the goodwill of the Under-Secretary-General for cooperation, while in the OSCE the audit committee could be mandated to provide an independent review of budget submissions. It would not be necessary to give an oversight committee any executive decision making powers as long as it had full rights of access to information. Instead, its role in providing assurance and recommendations directly to the legislature would give the member states the tool they need to assess the performance of internal oversight and to take any remedial action they consider necessary. Strengthening the oversight

[111] The JIU is also UN-specific which limits its applicability. Resource implications are unlikely to make the establishment of a new external oversight body viable for smaller IGOs such as the OSCE. However, other groups of IGOs sharing common aims may be able to benefit in principle from a dedicated external oversight body. For example, the investigation bodies of the multi-lateral development banks co-operate closely together, and have agreed on common standards on cross-debarring firms from future work when a supplier is found guilty of misconduct against one of them. They may conceivably therefore be good candidates for a common external oversight mechanism.

committees would also have resource implications in terms of ensuring that industry professionals have investigation expertise[112] and are able to dedicate sufficient attention to their activities. This may entail an appropriate level of financial compensation. However, an effective oversight committee would offset some of the burden on other legislative bodies.

Not all member states see the value of such a body, and the recent removal of the audit committee at the European Patent Office suggests a misunderstanding by member states as to their role and value. One of its former members goes further and suggests the decision revealed "a lamentable ignorance of the fundamental role of an Audit Committee." (Ernst, 2011). Paradoxially, a lack of appreciation for their role perhaps also demonstrates exactly why member states do need such a body. This thesis views a strong, independent oversight committee as a valuable resource for the member states and the oversight office alike, and a relatively straightforward method of enhancing the independence and accountability of the IGO oversight office.

Final Words

This study has added to the literature in the field of oversight offices by comprehensively examining the investigation functions of the two separate IGO oversight offices, and considering them as part of a holistic policing structure. It has built on the existing descriptive literature of oversight offices, and proposes a new approach to thinking of oversight offices in terms of their equivalence to state level law enforcement in the light of the sovereignty enjoyed by the IGO as an organisation. Furthermore, by considering accountability from the policing perspective – rather than the traditional audit lens – this thesis has expanded the accountability debate in international organisations by proposing a comprehensive policing framework to assess accountability of oversight offices. In doing so, this thesis has identified shortcomings in the way that oversight offices are required to account for their actions and has proposed solutions to address these.

It is acknowledged that some of the proposals for strengthening oversight accountability may not take priority when the IGOs' respective legislative bodies have

[112] Evaluation professionals may also be required where the oversight office also includes an evaluation function.

also to deal with matters of international peace and security. Fundamental changes to the mandates of internal oversight require political will, and politics can be inherently reactive to events. Nevertheless, member states themselves must take responsibility if they require proper accountability from the oversight office. They could certainly make more use of existing mechanisms but this requires commitment and resources. If these are unavailable, a strengthening of existing institutions, such as audit or oversight committees would also assist them, particularly if implemented proactively rather than waiting for the next scandal. Fraud and corruption will always be present, but a strong, independent and accountable oversight office will give assurance that the IGO is equipped to contain and/or respond to such threats. Ultimately, the effectiveness and accountability of policing in the IGO is only as strong as the member states want it to be.

Appendix A

Comparison of audit and investigation functions

The differing functions of audit and investigation (from document of unknown provenance, presented by Catchick, 2011) can be considered alongside the differences inherent in hard and soft policing styles:

Audit	**Investigation**
Control of systems	Control of behaviour
Procedure oriented	Person oriented
Sample based	Reconstruction based
Risk based	Event based
Recurring	Non-recurring
Primarily pro-active	Primarily re-active
Control based argument	Legal based argument
Scope defined by auditors	Scope defined by events
Consultative with auditees	Defensive by the accused
Leads to control improvements	Leads to sanctions & case law development

Similarities between investigation and hard policing emerge by comparing key words from the table (above) and key characteristics of hard and soft policing (Button, 2009):

Investigation	**Hard Policing**
Defensive	Confrontation
Non-recurring	Reactive
Primarily reactive	
Leads to sanctions	Rigorous enforcement
Legal based	
Reconstruction based	Detection

Audit	**Soft Policing**
Consultative	Consensus
Control improvements	Prevention
Primarily pro-active	Proactive
Recurring	
Risk based	
Scope defined by auditors	Discretion

Appendix B

List of UN Category 1 and 2 misconduct (UN Conduct and Discipline Unit, 2010)

Category 1

- All Sexual Exploitation and Abuse (SEA) related offences including rape, transactional sex, exploitative relationships and sexual abuse
- Cases involving risk of loss of life to staff or to others
- Abuse of authority or staff
- Conflict of interest
- Gross mismanagement
- Bribery/corruption
- Illegal mineral trade
- Trafficking with prohibited goods
- Life threat/murder
- Abuse or torture of detainees
- Arms trade
- Physical assault
- Forgery
- Embezzlement
- Major theft/fraud
- Use, possession or distribution of illegal narcotics
- Waste of substantial resources
- Entitlement fraud and procurement violations

Category 2

- Discrimination
- Harassment
- Sexual harassment
- Abuse of authority
- Abusive behaviour
- Basic misuse of equipment or staff
- Simple theft / fraud
- Infractions of regulations, rules or administrative issuances
- Traffic-related violations
- Conduct that could bring the UN into disrepute
- Breaking curfew
- Contract disputes and basic mismanagement

Bibliography

Ahlenius, I., 2010. *End of Assignment Report,* New York: s.n.

Andersen, M. S. & Sending, O. J., 2011. *Accountability in the United Nations,* Oslo: Norwegian Institute of International Affairs.

Appleton, R., 2011. *Written Statement of Robert M. Appleton, Former Chairman of the United Nations Procurement,* s.l.: s.n.

Association of Certified Fraud Examiners , 2012. *Report to the Nations on Occupational Fraud and Abuse,* Austin: ACFE.

Association of Chief Police Officers, 2008. *Police Reform Green Paper,* London: Association of Chief Police Officers.

Association of Police Authorities, 2010. [Online]
Available at:
http://www.apa.police.uk/admin/uploads/attachment/Who_polices_the_police-WhoPolicesthePolice.pdf [Accessed 14 May 2011].

Avert, 2012. *Worldwide Ages of Consent.* [Online]
Available at: http://www.avert.org/age-of-consent.htm [Accessed 4 August 2012].

Barnett, M. & Finnemore, M., 2004. *Rules for the World - International Organizations in Global Politics.* Ithaca: Cornell University Press.

Barnett, M. N. & Finnemore, M., 1999. The Politics, Power and Pathologies of International Organizations. *International Organization,* Autumn, 53(4), pp. 699-732.

Bartsiotas, G., 2006. The Office of Internal Oversight comes of age. *OSCE Magazine*, December, p. 26.

Bayley, D., 1985. *Patterns of Policing: A Comparative International Analysis.* New Brunswick, NJ: Rutgers University Press.

Bayley, D., 2005. What do the police do?. In: *Policing: Key Readings.* Newburn, T. Cullompton: Willan Publishing, pp. 141-149.

Bayley, D. H. & Shearing, C. D., 1996. The future of policing. 30(3), pp. 585-606.

BBC, 2011. *IMF boss should be chosen on merit say Australia and SA.* [Online]
Available at: http://www.bbc.co.uk/news/business-13490145 [Accessed 4 May 2012].

BBC, 2012a. *EU Commission chief Barroso calls for 'federation'.* [Online]
Available at: http://www.bbc.co.uk/news/world-europe-19568781
[Accessed 20 September 2012].

BBC, 2012b. *IMF's Peter Doyle scorns its 'tainted' leadership.* [Online]
Available at: http://www.bbc.co.uk/news/business-18921670
[Accessed 21 July 2012].

Bell, J., 2005. *Doing your research project. A guide for first - time researchers in education and social sciences.* 4th ed. Maidenhead: Open University Press.

Black, J., 2008. *Constructing and Contesting Legitimacy and Accountability in Polycentric Regulatory Regimes,* London: London School of Economics.

Bourguignon, F., Stern, N. & Stiglitz, J., 2012. *End the monopoly: let's make it a real World Bank at last.* [Online]
Available at: http://www.ft.com/intl/cms/s/0/4f96f8a4-6f7f-11e1-b3f9-00144feab49a.html#axzz1q0tYETkN [Accessed 24 March 2012].

Brodeur, J.-P., 1999. Accountability: The Search for a Theoretical Framework. In: Mendes, E. *Democratic Policing and Accountability.* Aldershot: Ashgate Publishing, pp. 125-164.

Brogden, M., 2005. The emergence of the police - the colonial dimension. In: Newburn, T. *Policing: Key Readings.* Cullompton: Willan Publishing, pp. 69-79.

Bruner, F., 2008. Fighting Fraud and Corruption worldwide using administrative investigations conducted by international organizations and multilateral development banks. In:The fight against corruption: international organizations at a cross-roads. *Journal of Financial Crime, Vol. 15, no.2, 2008 pp124-154,* pp. 124-154.

Bryman, A. & Bell, E., 2007. *Business Research Methods.* 2nd ed. New York: Oxford University Press.

Buehrer, R., 2012. *Investigations in a Corporate Environment: The Siemens Experience.* London, Association of Certified Fraud Examiners.

Button, M., 2009. Private security and the policing of corporate space. In: Hopkins Burke, R. *Hard Cop, Soft Cop.* Cullompton: Willan Publishing, pp. 101-113.

Catchick, P., 2011. *Governance of an Internal Anti-Fraud Office: Perspectives from the Intergovernmental Organisation.* Brussels, Association of Certified Fraud Examiners.

Conference of International Investigators, 2009. *10th Conference of International Investigators.* Dead Sea, Jordan, s.n.

Crawford, A., 2008. Plural policing in the UK: policing beyond the police. In: Newburn, T. *Handbook of Policing.* 2nd ed. Cullompton: Willan Publishing, pp. 147-181.

De Cooker, C., 2005. *Accountability, Investigation And Due Process in International Organizations.* Leiden: Koninklije Brill.

Diplomat_A, 2012. *Personal communication* [Interview] (2 March 2012).

Diplomat_B, 2012. *Personal communication* [Interview] (6 August 2012).

Dubnick, M. & Frederickson, G. H., 2011. Introduction. In: *Accountable Governance - Promises and Problems.* New York: M.E. Sharpe Inc, pp. xiii-xxxii.

Ebrahim-Carstens, M., 2011. *Observations by the judges of the United Nations Dispute Tribunal on recommendations contained in the report of the Secretary-General (A/66/275) and the report of the Internal Justice Council (A/66/158).* New York: United Nations.

Emsley, C., 2008. The birth and development of the police. In: Newburn, T. *Handbook of Policing.* 2nd ed. Cullompton: Willan Publishing, pp. 72-89.

Ernst, P., 2011. *Staff Union of the European Patent Office - Interview with Paul Ernst* [Interview] (20 September 2011).

Ernst, P., 2012. *Personal communication* [Interview] (21 May 2012).

European Commission, 2007. *How the European Union works - Your guide to the EU institutions.* [Online]
Available at: ec.europa.eu/publications/booklets/eu_glance/68/en.doc
[Accessed 20 September 2012].

European Community, 1999. *Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF).* Brussels: European Community.

Flanagan, R., 2008. *The Review of Policing,* s.l.: s.n.

Fosdick, R. B., 1915. *European Police Systems.* New York: The Century Co..

Freedom House, 2012. *Freedom in the World 2012,* s.l.: s.n.

Gardiner, N., 2011. *Time to Rein in the Bloated, Unaccountable United Nations.* [Online]
Available at: http://www.heritage.org/research/commentary/2011/10/time-to-rein-in-the-bloated-unaccountable-united-nations
[Accessed 3 May 2012].

Gaspar, R., 2008. Tackling International Crime - Forward into the Third Era. In: Brown, S. *Combating International Crime.* Abingdon: Routledge-Cavendish, pp. 8-28.

Gimlette, J., 2012. *New York tours: inside the UN Headquarters.* [Online]
Available at:
http://www.telegraph.co.uk/travel/destinations/northamerica/usa/newyork/9079115/New-York-tours-inside-the-UN-Headquarters.html [Accessed 13 February 2012].

Girodo, M., 2007. *A Culture Review of the Investigations Division of OIOS,* s.l.: s.n.

Goggins, P., 2009. *PSNI is a 'model' - Patten* [Interview] (9 September 2009).

Grimstad, E., 2007. *Final Report, Review of the OIOS Investigations Division, United Nations,* s.l.: s.n.

Hale, T., 2008. Transparency, Accountability and Global Governance. *Global Governance,* Volume 14, pp. 73-94.

Hammersley, M. & Atkinson, P., 2007. *Ethnography: principles in practice.* Abingdon: Routledge.

Her Majesty's Inspectorate of Constabulary, 1999. *Police Integrity - Securing and Maintaining Public Confidence,* London: Home Office Communication Directorate on behalf of HMIC.

Hobbes, T., 1651. *Leviathan,* s.l.: s.n.

Hoffmann, F. & Mégret, F., 2005. Fostering Human Rights Accountability: An Ombudsperson for the United Nations?. *Global Governance,* Volume 11, pp. 43-63.

Home Office, 2004. *Building Communities, Beating Crime,* Norwich: The Stationery Office.

Home Office, 2008. *Police equality and diversity,* London: Home Office.

Hurd, I., 2011. *International Organizations - Politics, Law, Practice.* Cambridge: Cambridge University Press.

Hwang, P., 2009. Reform of the Administration of Justice System at the United Nations. *The Law and Practice of International Courts and Tribunals,* Volume 8, pp. 181-224.

Independent Audit Advisory Committee, 2012. *Terms of Reference and Criteria for Membership in the Independent Audit Advisory Committee.* [Online] Available at: https://www.un.org/ga/iaac/termsofreference.shtml [Accessed 13 June 2012].

Independent Commission on Policing in Northern Ireland, 1999. *A New Beginning: Policing in Northern Ireland,* London: HMSO.

Institute of Internal Auditors, 2010. *International Standards for the Professional Practice of Internal Auditing.* s.l.:Institute of Internal Auditors.

Institute of Internal Auditors, 2012. *What is internal auditing?.* [Online] Available at: http://www.theiia.org/theiia/about-the-profession/internal-audit-faqs/?i=1077 [Accessed 9 February 2012].

International Civil Service Commission, 2001. *Standards of conduct for the international civil service.* s.l.:s.n.

Joint Inspection Unit, 1986. *Administration of Justice in the United Nations,* Geneva: United Nations.

Joint Inspection Unit, 1993. *Accountability and Oversight in the United Nations Secretariat,* Geneva: United Nations.

Joint Inspection Unit, 1995. *Accountability, Management, Improvement, and Oversight in the United Nations,* Geneva: United Nations.

Joint Inspection Unit, 1998. *More Coherence for Enhanced Oversight in the United Nations System,* Geneva: United Nations.

Joint Inspection Unit, 2000. *Strengthening the Investigations Function in the United Nations System Organizations,* Geneva: United Nations.

Joint Inspection Unit, 2001. *Enhancing Governance Oversight Role,* Geneva: United Nations.

Joint Inspection Unit, 2006. *Oversight Lacunae in the United Nations System,* Geneva: United Nations.

Joint Inspection Unit, 2010a. *Ethics in the United Nations System,* Geneva: United Nations.

Joint Inspection Unit, 2010b. *The Audit Function in the United Nations System,* Geneva: United Nations.

Joint Inspection Unit, 2011a. *The Investigation Function in the United Nations System,* Geneva: United Nations.

Joint Inspection Unit, 2011b. *Accountability Frameworks in the United Nations System,* Geneva: United Nations.

Jones, T., 2008. The accountability of policing. In: Newburn, T. *Handbook of Policing.* 2nd ed. Cullompton: Willan, pp. 693-724.

Karns, M. P. & Mingst, K. A., 2004. *International Organizations - The Politics and Processes of Global Governance.* Boulder: Lynne Rienner Publishers Inc.

Keleman, R. D., 2005. *Built to Last? The durability of EU federalism.* s.l., Princeton Universtiy.

Lapointe, C., 2011. *Personal communication* [Interview] (7 October 2011).

Lapointe, C., 2012. *ACFE European Conference, London* (26 March 2012).

Lapointe, C., ca. 2012. *Office of Internal Oversight Services - A different angle: A conversation with Ms. Carman Lapointe* [Interview] ca. 2012.

League of Nations, 1920. *Official Journal,* pp. 136-139.

Lee, M., 2007. *In Mr. Ban's UN, Why Is List of Staff by Nation Still Kept Confidential, Even from the Staff?*. [Online]
Available at: http://www.innercitypress.com/unlist052107.html
[Accessed 19 November 2011].

Lemoine, J., 1995. *The International Civil Servant: An Endangered Species.* The Hague: Kluwer Law International.

Lloyd, R., Oatham, J. & Hammer, M., 2007. *2007 Global Accountability Report,* London: One World Trust.

Lloyd, R., Warren, S. & Hammer, M., 2008. *2008 Global Accountability Report,* London: One World Trust.

Loirot, F., 2005. Accountability at the United Nations – In Need of a Genuine External Enforcement Body. In: De Cooker, C. *Accountability, Investigation And Due Process in International Organizations.* Leiden: Koninklije Brill, pp. 63-96.

Lynch, C., 2010. *U.N. head Ban Ki-Moon refusing orders from internal personnel court.* [Online]
Available at: http://www.washingtonpost.com/wp-dyn/content/article/2010/05/12/AR2010051204868.html [Accessed 18 July 2011].

Malloch-Brown, M., 2008. The John W. Holmes Lecture: Can the UN Be Reformed?. *Global Governance*, 14(1), pp. 1-12.

Marshall, G., 2005. Police accountability revisited. In: *Policing: Key Readings.* Cullompton: Willan Publishing, pp. 624-635.

Mathiason, J., 2008. What Kind of International Public Service Do We Need for the Twenty-first Century?. *Global Governance*, Volume 14, pp. 127-133.

Mawby, R., 2008. Models of Policing. In: Newburn, T. *Handbook of Policing.* 2nd ed. Cullompton: Willan Publishing, pp. 17-46.

Mawby, R. I., 1990. *Comparative Policing Issues: The British and American Experience in International Perspective.* London: Unwin Hyman Ltd.

Mawby, R. & Wright, A., 2005. *Police Accountability in the United Kingdom,* s.l.: Commonwealth Human Rights Initiative.

Mayne, R., 1829. *History of the Metropolitan Police.* [Online]
Available at: http://www.met.police.uk/history/definition.htm
[Accessed 22 August 2012].

McCormick, J., 2008. The fight against corruption: international organizations at a cross-roads. *Journal of Financial Crime,* 15(2), pp. 124-154.

Montil, F., 2007. *The lies from within* [Interview] (6 October 2007).

Moynihan, D., 1978. *A Dangerous Place.* New York: Little, Brown & Company.

Münch, W., 2006. Wrongdoing of International Civil Servants - Referral of Cases to National Authorities for Criminal Prosecution. In: Wolfrum, A. and von Bogdandy, R. *Max Planck Yearbook of United Nations Law, Volume 10, 2006.* s.l.:Koninklijke Brill, pp. 71-88.

National Research Council, 2004. *Fairness and Effectiveness in Policing: The Evidence,* Washington, D.C.: The National Academic Press.

Newburn, T. & Reiner, R., 2004. From PC Dixon to Dixon PLC. *Criminal Law Review,* pp. 601-618.

Odello, M., 2010. Tackling Criminal Acts in Peacekeeping Operations: The Accountability of Peacekeepers. *Journal of Conflict and Security Law,* 15(2), p. 347.

Office of Internal Oversight Services, 2000. *The Office of Internal Oversight Services of the United Nations: Genesis, Mission, Methods, Impact,* New York: United Nations.

OIOS_Official, 2011. *Personal communication* [Interview] (26 May 2011).

OLAF, 2012. [Online]
Available at: http://ec.europa.eu/dgs/olaf/mission/index_en.html

Orde, H., 2010. *BBC Hardtalk* [Interview] (24 May 2010).

OSCE Office of Internal Oversight, 2012. *Office of Internal Oversight.* [Online]
Available at: http://www.osce.org/secretariat/oio [Accessed 25 May 2012].

OSCE, 1998. *Permanent Council Decision 248.* Vienna: OSCE.

OSCE, 2000. *Permanent Council Decision 399/2000.* Vienna: OSCE.

OSCE, 2004. *Permanent Council Decision 656 - Establishment of Audit Committee.* Vienna: OSCE.

OSCE, 2010. *Astana Commemorative Declaration: Towards a Security Community.* Astana, OSCE.

Parsons, T., 1956. Suggestions for a Sociological Approach to the Theory of Organizations. *Administrative Science Quarterly,* June.1(1).

Paschke, K., 1998. Corruption as a Threat to the United Nations. In: *Working across cultures: ethical perspectives for intercultural management.* Dordrecht: Kluwer Academic Publishers, pp. 141-145.

Patten Report - See Independent Commission on Policing in Northern Ireland, 1999.

Pearce, F., 1995. Accountability for Corporate Crime. In: Stenning, ed. *Accountability for Criminal Justice - Selected Essays.* Buffalo: University of Toronto Press, pp. 213-238.

Police Service of Northern Ireland, 2008. *A History of Policing in Ireland.* [Online] Available at: http://www.psni.police.uk/index/about-us/police_museum/history_of_policing.htm [Accessed 29 January 2012].

Rajaobelina, T., 2011. *Personal communication* [Interview] (7 December 2011).

Rawlings, P., 2008. Policing before the police. In: Newburn, T. *Handbook of Policing.* 2nd ed. Cullompton: Willan Publishing, pp. 47-71.

Rea, D., Donnelly, D. & Fitzsimons, J., 2009. *Northern Ireland Policing Board 2009. International Comparison Research: models of police governance and accountability,* London: Association of Police Authorities.

Reiner, R., 2010. *The Politics of the Police.* Fourth ed. Oxford: Oxford University Press.

Reinisch, A., 2001. Securing the Accountability of International Organizations. *Global Governance,* 7(131), pp. 131-149.

Robertson, D., 1998. *Public and Private Policing: Issues and Options for Collaboration within Australia.* Hobart, Australian Institute of Criminology, pp. 1-12.

Rogin, J., 2012. *The Cable - State Department defends U.N. agency as Ros-Lehtinen attacks.* [Online]
Available at:
http://thecable.foreignpolicy.com/posts/2012/07/24/state_department_defends_un_agency_as_ros_lehtinen_attacks [Accessed 4 August 2012].

Romzek, B. S. & Dubnick, M. J., 2000. Defining Public Administration: Selections From the International Encyclopedia of Public Policy And Administration. In: J. M. Shafritz, ed. Boulder(Colorado): Westview Press, pp. 382-395.

Sanjuan, P., 2005. *The UN Gang.* New York: Doubleday.

Sarooshi, D., 2005. *International Organizations and their exercise of Sovereign Powers.* Oxford: Oxford University Press.

Shearing, C., 2000. Patten has been gutted. *The Guardian,* 14 November.

Sheptycki, J., 1995. Transnational Policing and the Makings of a Postmodern State. *British Journal of Criminology,* 35(4).

Sheptycki, J., 2004. The Accountability of Transnational Policing Institutions: The Strange Case of Interpol. *Canadian Journal of Law and Society,* 19(1), pp. 107-134.

Silver, A., 2005. The demand for order in civil society. In: Newburn, T. *Policing Key Readings.* Cullompton: Willan Publishing, pp. 7-24.

Silverman, D., 2006. *Interpreting qualitative data: methods for analyzing talk, text and interaction.* London: Sage Publications Ltd.

Smith, A., 1995. *Nations and Nationalism in a Global Era.* Cambridge: Polity Press.

Stenning, 2000. Powers and Accountability of Private Police. *European Journal on Criminal Policy and Research,* Volume 8, pp. 325-352.

Stenning, 2009. Governance and accountability in a plural policing environment - the story so far. *Policing: A Journal of Policy and Practice,* 8 February, 3(3), pp. 22-33.

Stenning, P., 1995a. Introduction. In: Stenning, P. *Accountability for Criminal Justice - Selected Essays.* Buffalo: University of Toronto Press Incorporated, pp. 3-14.

Stenning, P., 1995b. Accountability in the Ministry of the Solicitor General in Canada. In: *Accountability for Criminal Justice: Selected Essays.* Totonto: University of Toronto Press.

Stern, E., 2011. *Personal communication* [Interview] (2 August 2011).

Stiglitz, J., 2003. Democratizing the International Monetary Fund and the World Bank: Governance and Accountability. *Governance: An International Journal of Policy, Administration and Institutions,* January, 16(1), pp. 111-139.

Stribis, I., 2011. The legal status of the OSCE: A view from the other side of the mirror. *OSCE Secretariat's Legal Services Newsletter*, Issue 2, pp. 2-7.

Stringer, E., 2007. *Action Research.* 3rd ed. Thousand Oaks: Sage Publications.

Swallow, P., 1998. *European Police Cooperation: A Comparative Analysis Of European Level Institutional And Organisational Developments And National Level Policies And Structures.* Southampton: University of Southampton.

Swiss Federation, 2007. *Switzerland unsatisfied with the outcome of the WIPO General Assembly.* [Online]
Available at:
http://www.eda.admin.ch/eda/en/home/recent/media/single.html?id=14988
[Accessed 19 February 2012].

Tait, J., 1997. *A Strong Foundation. Report of the Task Force on Public Values and Ethics,* Ottawa: Privy Council Office.

The Economist, 2010. International bureaucracies: Secretarial Work. *The Economist,* 24 June.

The Economist, 2010. The state of Russia - Frost at the core. *The Economist,* 9 December.

Thomas, C., 2001. Constitutional Change and International Government. *Hastings Law Journal,* Volume 52, pp. 1-46.

Tönnies, F., 1887. *Community and Society.* s.l.:Michigan State University Press.

Tribunal Judge, 2012. *Personal Communication* [Interview] (28 February 2012).

UN ACABQ, 2002. *A/57/434.* New York: United Nations.

UN ACABQ, 2007. *A/62/7/Add.15.* New York: United Nations.

UN ACABQ, 2008. *A/62/7/Add.35.* New York: United Nations.

UN Conduct and Discipline Unit, 2010. *UN Strategy.* [Online].
Available at: http://cdu.unlb.org/UNStrategy/Enforcement.aspx
[Accessed 22 September 2012].

UN Department of Safety and Security, 2009. *Directive on the Use of Force By United Nations Security Officers.* s.l.:s.n.

UN Dispute Tribunal, 2011. *UNDT/2011/060.* Nairobi: United Nations.

UN Fifth Committee, 2004. *A/59/649.* New York: United Nations.

UN General Assembly, 1946. *Convention on the Privileges and Immunities of the United Nations.* New York: United Nations.

UN General Assembly, 1976. *A/RES/31/192.* New York: United Nations.

UN General Assembly, 1994. *A/RES/48/218b.* New York: United Nations.

UN General Assembly, 1994. *A/RES/48/218b.* s.l.:New York.

UN General Assembly, 2000. *A/RES/54/244.* New York: United Nations.

UN General Assembly, 2005. *A/RES/59/272.* New York: United Nations.

UN General Assembly, 2006. *A/RES/60/248.* New York: United Nations.

UN General Assembly, 2007. *A/RES/61/275.* New York: United Nations.

UN General Assembly, 2009. *A/RES/63/253.* New York: United Nations.

UN General Assembly, 2010. *A/RES/64/259.* New York: United Nations.

UN Independent Audit Advisory Committee, 2008. *A/63/328.* New York: United Nations.

UN Independent Audit Advisory Committee, 2010. *A/65/329.* New York: United Nations.

UN Internal Justice Council, 2010. *A/65/304 Administration of justice at the United Nations,* New York: United Nations.

UN International Law Commission, 2009. *A/64/10.* New York: United Nations.

UN Office of Internal Oversight Services Investigations Division, 2005. *Briefing for OIOS USG Ahlenius,* s.l.: Unpublished.

UN Office of Internal Oversight Services, 2006. *A/60/901.* New York: United Nations.

UN Office of Internal Oversight Services, 2008. *A/63/268.* New York: United Nations.

UN Office of Internal Oversight Services, 2009. *Investigations Manual.* New York: United Nations.

UN Office of Internal Oversight Services, 2011. *A/66/286.* New York: United Nations.

UN OIOS, 2012. *United Nations Office of Internal Oversight Services.* [Online] Available at: https://www.un.org/Depts/oios/ [Accessed 1 June 2012].

UN Redesign Panel, 2006. *A/61/205.* New York: United Nations.

UN Secretary-General, 1994. *ST/SGB/273.* New York: United Nations.

UN Secretary-General, 2006a. *A/61/257.* New York: United Nations.

UN Secretary-General, 2006b. *ST/SGB/2006/6.* New York: United Nations.

UN Secretary-General, 2007a. *A/62/294.* New York: United Nations.

UN Secretary-General, 2007b. *A/61/758.* New York: United Nations.

UN Secretary-General, 2007c. *A/62/272/Add.1.* New York: United Nations.

UN Secretary-General, 2010. *A/64/640.* New York: United Nations.

UN Secretary-General, 2011. *A/66/275.* New York: United Nations.

United Nations, 1945. *Charter of the United Nations and Statute of the International Court of Justice.* San Francisco: United Nations.

United Nations, 2008. *Investigations Division.* [Online] Available at: http://www.un.org/Depts/oios/pages/id.html [Accessed 25 August 2012].

United Nations, 2012a. *The Role of the Secretary-General.* [Online] Available at: https://www.un.org/sg/sg_role.shtml [Accessed 16 April 2012].

United Nations, 2012b. *General Assembly of the United Nations - Administrative and Budgetary - Fifth Committee.* [Online]

Available at: https://www.un.org/en/ga/fifth/faq.shtml
[Accessed 31 August 2012].

US Government Accountability Office, 2005. *Oil for Food Program Audits,* Washington, DC: US Government Accountability Office.

US Government Accountability Office, 2006. *United Nations Funding Arrangements Impede Independence of Internal Auditors,* Washigton D.C.: US Government Accountability Office.

US Government Accountability Office, 2011. *UN Internal Oversight,* Washington, D.C.: US Government Accountability Office.

Various, 2008. The fight against corruption: international organizations at a cross-roads. *Journal of Financial Crime,* 15(2), pp. 124-154.

Volcker, P., 2007. *Independent Panel Review of The World Bank Group Department of Institutional Integrity,* Washington D.C.: s.n.

Volcker, P., Goldstone, R. & Pieth, M., 2005. *The Management of the United Nations Oil-for-Food Programme Volume IV - Report of Investigation United Nations Administration, Part II,* s.l.: s.n.

Walker, N., 2008. The pattern of transnational policing. In: Newburn, T. *Handbook of Policing.* 2nd ed. Cullompton: Willan Publishing, pp. 119-146.

Wardle, R., 2009. *ACFE European Fraud Conference.* London, ACFE.

Weber, M., 1948. *Essays in Sociology.* 1991 ed. London: Routledge and Kegan Paul Ltd.

Westley, W., 2005. Responsibilities of the police. In: N. T, ed. *Policing Key Readings.* Cullompton: Willan Publishing, pp. 137-140.

World Bank, 2010. *Annual Report 2010 - A Global Workforce.* [Online]
Available at:
http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/EXTANNREP/EXTANNREP2010/0,,contentMDK:22626745~menuPK:7150746~pagePK:64168445~piPK:64168309~theSitePK:7074179,00.html
[Accessed 18 November 2011].

World Intellectual Property Organization, 2010. *Review of the Internal Audit Charter,* Geneva: WIPO.

Wouters, J., Hachez, N. & Scmitt, P., 2010. *Managerial Accountability: What Impact on International Organisations' Autonomy?,* Leuven: Leuven Centre for Global Governance Studies.