



**Transnational Organized Crimes in Africa: A Case Study of Drug Trafficking and Money Laundering in Ghana and South Africa.**

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## **Abstract**

Every phenomenon evolves with times. Illicit activities like Transnational Organized Crimes (TOC) are not an exception in this regard. Africa, especially West and Southern Africa, have been challenged by a number of TOCs. Ghana and South Africa are amongst the countries in West and Southern Africa that have been subjected to a range of crimes of this nature. Drug trafficking and money laundering are the most prominent illicit activities in Ghana and South Africa. Drug trafficking and money laundering has been prevalent in Ghana and South Africa to such an extent that it has contributed to the growth of illicit economy. Increased size of illicit economy, constrained state capacity and expansion of TOCs are amongst effects of drug trafficking and money laundering in Ghana and South Africa. This dissertation evaluates state capacity in relation to drug trafficking and money laundering in Ghana and South Africa in the period from 2001 to 2011. Regulatory, administrative, technical and extractive are elements of state capacity being looked at. The research used qualitative research method, this was achieved through textual analysis of secondary sources. Regulatory, administrative, and technical state capacity elements have been fairly operational in dealing with drug trafficking and money laundering in the period from 2001 to 2011 in the two countries being looked at. On the other hand extractive state capacity element has been struggling from 2001 to 2011 in reducing drug trafficking and money laundering in Ghana and South Africa. It is clear that globalization has played an important role in the occurrence of the two TOCs under discussion. To better understand TOCs further research needs to look at other regions within and outside Africa.

## **Declaration**

I declare that this dissertation “Transnational Organized Crimes in Africa: A Case Study of Drug Trafficking and Money Laundering in Ghana and South Africa” is my own original work and has not been submitted in any form for any degree or diploma at any University. Where use was made of the works of others, it has been acknowledged in the text.

**Signature** \_\_\_\_\_

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As the candidate's Supervisor I have approved this dissertation for submission

**Signature** \_\_\_\_\_

**Dr Bheki R. Mngomezulu**

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## Abbreviations

AFU	Asset Forfeiture Unit
AU	African Union
AUC	African Union Commission
CPF	Community Police Forum
DRC	Democratic Republic of Congo
ECOWAS	Economic Community of West African States
EOCO	Economic and Organized Crime Office
ESAAMLG	East and Southern African Anti-Money Laundering Group
FATF	Financial Action Task Force
FIC	Financial Intelligence Centre
FSL	Forensic Science Laboratory
GIABA	Inter-Governmental Action Group against Money Laundering
GNI	Gross National Income
GNP	Gross National Product
GPML	Global Programme against Money Laundering
GPS	Ghana Police Service
INCSR	International Narcotics Control Strategy Report
IPID	Independent Police Investigative Directorate
ISS	Institute for Security Studies
ICD	Independent Complaints Directorate
NACOB	Narcotics Control Board
NCPS	National Crime Prevention Strategy
NPA	National Prosecuting Authority
NPTS	National Police Training School
PIPS	Police Intelligence and Professional Standards Bureau

RPICT	Research, Planning and Information and Communication Technology
SADC	Southern African Development Community
SANDF	South African National Defence Force
SAPS	South African Police Service
SAPs	Structural Adjustment Programs
SARPCO	Southern African Regional Police Chiefs Co-ordination Organisation
SARS	South African Revenue Service
SIU	Special Investigative Unit
TOC	Transnational Organized Crime
US	United States

<b>Abstract</b>	<b>i</b>
<b>Declaration</b>	<b>ii</b>
<b>Acknowledgements</b>	<b>iii</b>
<b>Abbreviations</b>	<b>iv</b>
<b>Chapter One</b>	<b>1</b>
<b>Introduction and Conceptual Framework</b>	<b>1</b>
<b>1.1. Introduction</b>	<b>1</b>
1.1.1. Brief outline	1
1.1.2. Definition of Key Terms	3
1.1.2.1. Transnational Organized Crime (TOC)	3
1.1.2.1.1. Home states	4
1.1.2.1.2. Host states	5
1.1.2.1.3. Trans-shipment states	5
1.1.2.1.4. Service states	5
1.1.2.2. Drug trafficking	6
1.1.2.3. Money laundering	6
1.1.2.4. Corruption	7
<b>1.2. Review of related literature</b>	<b>7</b>
1.2.1. Global perspective on Ghana	8
1.2.1.1. Neoliberal view	8
1.2.1.2. Global events	9
1.2.2. Global perspective on South Africa	10
1.2.2.1. Globalisation	11
1.2.3. Regional perspective on Ghana	12
1.2.3.1. Poverty and inequality	12
1.2.3.2. Governance	13
1.2.4. Regional perspective on South Africa	15
1.2.4.1. Capacity	15
1.2.4.2. Readily available resources	17
1.2.5. Case studies on Ghana	18
1.2.5.1. Geography and socio-economic issues	18
1.2.5.2. Nature and characteristics of actors	19
1.2.5.3. Law enforcement	19
1.2.6. Case studies on South Africa	20
1.2.6.1. Transition period	20
1.2.6.2. Actors	20
1.2.6.3. Issue of corruption	22
1.2.6.4. State capacity	23
<b>1.3. Theoretical framework</b>	<b>24</b>
1.3.1. The concept of state capacity	24
1.3.1.1. Defining the concept of state capacity	25
1.3.1.2. The link between transnational organized crime, corruption and state capacity	27
<b>1.4. Methodology</b>	<b>28</b>
<b>1.5. Reasons for the study and limitations</b>	<b>30</b>
<b>1.6. Research problems and objectives: Broader issues investigated</b>	<b>32</b>
<b>1.7. Structure of the Dissertation</b>	<b>33</b>

<b>Chapter Two</b>	<b>35</b>
<b>The Evolution of Transnational Organized Crimes: A Global Overview</b>	<b>35</b>
<b>2.1. Introduction</b>	<b>35</b>
<b>2.2. Crime groups and Typologies of transnational organized crimes</b>	<b>35</b>
2.2.1. Structural arrangements of criminal groups	35
2.2.1.1. Traditional networks	35
2.2.1.2. Modern networks	36
2.2.2. Typologies	36
2.2.2.1. Effects and conditions of Transnational Organized Crimes (TOCs)	37
2.2.2.1.1. Predatory	37
2.2.2.1.2. Parasitic	37
2.2.2.1.3. Symbiotic	38
2.2.2.2. The five most prevalent forms of TOCs	38
2.2.2.2.1. Drug trafficking	39
2.2.2.2.2. Human trafficking	39
2.2.2.2.3. Smuggling of migrants	40
2.2.2.2.4. Trafficking in natural resources	40
2.2.2.2.5. Trading in fraudulent medicines	41
<b>2.3. History of transnational organized crimes and their evolutions</b>	<b>41</b>
2.3.1. The early years of transnational organized crimes in the 1400s to 1900s	41
2.3.1.1. A brief overview on piracy and banditry	41
2.3.1.2. State formation and TOCs	42
2.3.1.3. States endorsing TOCs	44
2.3.1.3.1. Improving capacities of states through protection and finance	45
2.3.1.3.2. Improving capacities of states to deal with their rivals	45
2.3.1.4. Independent criminal groups	46
2.3.2. Expansion years of transnational organized crime during 1910 to late 1980s	47
2.3.3. The notable years of transnational organized crimes in the 1990s to early 2000s	53
<b>2.4. Implications for World Politics</b>	<b>59</b>
<b>2.5. Conclusion</b>	<b>59</b>



<b>Chapter Three</b>	<b>61</b>
<b>Drug Trafficking and State Capacity in Ghana and South Africa</b>	<b>61</b>
<b>3.1. Introduction</b>	<b>61</b>
<b>3.2. State capacity on drug trafficking in Ghana</b>	<b>64</b>
3.2.1. Actors	64
3.2.2. Interests and Incentives of actors	65
3.2.3. Resources of actors and the impact of their operations	66
3.2.4. Regulatory capacity on drug trafficking	67
3.2.4.1. Rule of law	67
3.2.5. Administrative capacity on drug trafficking	71
3.2.5.1. Personnel	71
3.2.5.2. Infrastructure and working conditions	72
3.2.5.3. Accountability	74
3.2.6. Technical capacity on drug trafficking	76
3.2.6.1. Technical skills and strategic institutions	76
3.2.7. Extractive capacity on drug trafficking	78
3.2.7.1. Funds	78
<b>3.3. State capacity on drug trafficking in South Africa</b>	<b>79</b>
3.3.1. Actors	79
3.3.2. Interests and Incentives of actors	80
3.3.3. Resources of actors and the impact of their operations	80
3.3.4. Regulatory capacity on drug trafficking	81
3.3.4.1. Rule of law	81
3.3.5. Administrative capacity on drug trafficking	85
3.3.5.1. Personnel	85
3.3.5.2. Infrastructure	88
3.3.5.3. Working conditions.	88
3.3.5.4. Accountability	89
3.3.6. Technical capacity on drug trafficking	90
3.3.6.1. Technical skills and strategic institutions	90
3.3.7. Extractive capacity on drug trafficking	92
3.3.7.1. Funds	92
<b>3.4. Conclusion</b>	<b>93</b>

<b>Chapter Four</b>	<b>99</b>
<b>Money Laundering and State Capacity in Ghana and South Africa</b>	<b>99</b>
<b>4.1. Introduction</b>	<b>99</b>
<b>4.2. State capacity on money laundering in Ghana</b>	<b>100</b>
4.2.1. Actors	100
4.2.2. Interests and Incentives of actors	100
4.2.3. Resources of actors and the impact of their operations	101
4.2.4. Regulatory capacity on money laundering	103
4.2.4.1. Rule of law	103
4.2.5. Administrative capacity on money laundering	107
4.2.5.1. Personnel	107
4.2.5.2. Infrastructure and working conditions	108
4.2.5.3. Accountability	109
4.2.6. Technical capacity on money laundering	111
4.2.6.1. Technical skills and strategic institutions	111
4.2.7. Extractive capacity on money laundering	112
4.2.7.1. Funds	112
<b>4.3. State capacity on money laundering in South Africa</b>	<b>113</b>
4.3.1. Actors	113
4.3.2. Interests and Incentives of actors	113
4.3.3. Resources of actors and the impact of their operations	114
4.3.4. Regulatory capacity on money laundering	116
4.3.4.1. Rule of law	116
4.3.5. Administrative capacity on money laundering	121
4.3.5.1. Personnel	121
4.3.5.2. Infrastructure and working conditions	122
4.3.5.3. Accountability	124
4.3.6. Technical capacity on money laundering	126
4.3.6.1. Technical skills and strategic institutions	126
4.3.7. Extractive capacity on money laundering	128
4.3.7.1. Funds	128
<b>4.4. Conclusion</b>	<b>129</b>

<b>Chapter Five</b>	<b>133</b>
<b>Summary, Recommendations and Conclusion</b>	<b>133</b>
<b>5.1. Summary</b>	<b>133</b>
5.1.1. Global Overview on TOCs	134
5.1.2. Ghana on drug trafficking and state capacity	135
5.1.3. South Africa on drug trafficking and state capacity	136
5.1.4. Ghana on money laundering and state capacity	138
5.1.5. South Africa on money laundering and state capacity	139
<b>5.2. Recommendations</b>	<b>140</b>
<b>5.3. Conclusion</b>	<b>142</b>
<b>Bibliography</b>	<b>143</b>

## **Chapter One: Introduction and Conceptual Framework**

### **1.1. Introduction**

#### **1.1.1. Brief outline**

The tragic incident of September 11 2001 marked a new era in the conceptualization and attitudes towards transnational organized crimes (TOCs). This dissertation looks at two TOCs, namely: drug trafficking and money laundering in relation to state capacity.

TOC is a common problem in Africa. Drug trafficking is amongst major TOCs threatening the world today. The two commonest types of TOCs are drug trafficking and money laundering. West and Southern Africa are part of the most important drug trafficking routes in Africa, especially trafficking of cocaine (United Nations on Drugs and Crime, 2011). The reason for this scourge is that drug trafficking is the most profitable TOC with proceeds of about 20 % compared to profits from other crimes of this nature (United Nations on Drugs and Crime, 2011). This therefore means that proceeds of drug trafficking are almost half of the proceeds by other TOCs. Drug proceeds in most countries are used to incapacitate state institutions (Van Dijk, 2007). It is at this point that money laundering becomes an issue. Proceeds from drugs, which are laundered with the connivance of staff of financial institutions, are used to corrupt state officials (Bolaji, 2010). Moreover, there is also evidence that money laundering contributes to the further occurrence of other TOCs (United Nations on Drugs and Crime, 2011). In West Africa, Ghana is a major transit route of cocaine to Europe which was previously trafficked through Nigeria (United Nations, 2005). Ghana has been used as a transit route for drug trafficking since 1980 (Aning, 2007). In South Africa TOCs became a noticeable problem in 1994 (Gastrow, 2001). Subsequently South

Africa's reported drug related incidents totalled 273.4 between 2010 and 2011 (South African Police Service, 2011). They were recorded as the most increased crime incidents at 10 % and 2 % between 2009 to 2010 and 2010 to 2011 respectively (South African Police Service, 2011).

State incapacity makes countries vulnerable to TOC. Shortage of resources to assist in law enforcement to curb TOCs is amongst the factors that worsen TOCs (Dupont et al, 2003). Moreover, shortage of resources is not only a cause in terms of infrastructure but rather shortage of personnel in West and Southern African countries compounds the problem even further (Hubschle, 2011). States with waning capacity can be identified by a situation where private security officers outnumber state police (Dupont, 2003).

When a state is unable to ensure accountability, transparency, equity, and enforcement of the law consequences are dire, as this may lead to state failure or weakening state capacity (Bolaji, 2010). In the words of Sung (2004: 112) "The concept of state failure can also be viewed as a quantitative continuum that ranges from high state functioning to complete state failure". State failure is described as the inability of the state to control its political and economic life (West, 2006). State failure normally leads to the development of underground illicit economies, weakens institutions like banks, and breeds unequal distribution of wealth and corruption (Sung, 2004). Corruption is one of the indicators of state failure and offers criminal groups opportunity to manipulate state institutions through officials (United Nations on Drugs and Crime, 2011). According to the corruption perception index by Transparency International, in 2011 Ghana was ranked 69 scoring 3.9, and South Africa was ranked 64 with a score of 4.1 out of a possible score of 9. These figures indicate that corruption is fairly present, which shows that state capacity in both these countries is constantly challenged (Transparency International, 2011).

TOCs cut across the strata of the society in terms of the perpetrators as they involve the educated from different spheres and or levels, the poor and the least educated (Standing, 2003). They are generally committed out of rational choice in which cost and benefit of committing a crime is calculated (Barak, 2001). Criminal actors are eager to commit illicit activities if they obtain more proceeds and receive less penal sanctions (Zimmerman, 2003).

Against this backdrop, this dissertation examines the vulnerability of Ghana and South Africa to drug trafficking and money laundering. Specifically, it demonstrates empirically that vulnerability is exacerbated by state incapacity. This dissertation concentrates on the period from 2001 to 2011 as it is a significant period for the international community in the fight against TOCs.

### **1.1.2. Definition of Key Terms:**

For the sake of clarity, it is useful to define the four terms which have been used in this dissertation, namely: TOC, drug trafficking, money laundering and corruption.

#### **1.1.2.1. Transnational Organized Crime (TOC)**

There is no consensus on the precise definition of TOC. Definitions range from those which describe it as a single activity, to others describing it in terms of its characteristics, while others see it as a process aimed at incapacitating the state (Nagle, 2002).

TOCs are crimes which occur in one or more states, prepared and planned in one state and occur in another, or occur in one state but one or more states are affected (Cilliers, 2003). Moreover, according to the United Nations (2005) TOCs involve severe criminal activities for profit motive carried out by organized crime groups existing for a particular period of time. Although a number

of definitions have stressed TOCs to only involve hierarchical organized groups, smaller and non-hierarchical groups are also within the scope of participants in TOCs (Goga, 2012).

TOC should not be confused with international crime. There is a temptation to confuse the two. A crime is a TOC only if it involves two or more jurisdictions where the statutes of such a country or countries regard it unlawful (Madsen, 2009). A TOC may or may not be subjected to international law (Madsen, 2009). International crime may or may not involve more than one country as long as international law regards it unlawful it qualifies as an international crime (Madsen, 2009). Corruption plays an important role in the occurrence of most TOCs as state officials are bribed by criminal groups (Kunaka, 2002).

In the context of this dissertation, TOCs are simply criminal activities that subject one or more states into disrepute. The perpetrators of TOCs are mostly secretive of their operations. The motive behind TOCs can be political or economic.

States involved in TOCs can be divided into four categories, namely: home states, host states, trans-shipment, and service states (De Andres, 2008b).

As defined by Williams (1997) states involved in TOCs are as follows:

#### **1.1.2.1.1. Home states**

These states have favourable conditions for criminal groups to operate in, these conditions usually result from state weaknesses (Williams, 1997). The main activities are usually based in these states with state officials assisting criminal groups in their illicit activities such as in the processing of drugs (Williams, 1997).

#### **1.1.2.1.2. Host states**

They are essentially the most important states for criminal groups as they keep their business because they are markets for commodities sold by criminal groups (Williams, 1997). The criminal groups weaken these states through embedding themselves into local populations based on ethnic lines (Williams, 1997). An obvious example of a country which is a host state is the United States (US) for being a drug market for drug cartels from South America (Williams, 1997).

#### **1.1.2.1.3. Trans-shipment states**

These states are positioned in geographical areas used in the trafficking of certain illegal products such as illegal drugs and weapons. These states are mostly subjected to corruption by criminal groups (Williams, 1997)

#### **1.1.2.1.4. Service states**

Financial institutions are amongst entities found in these states. It is the operation of these institutions specifically the secrecy of the banking industry makes it easy for criminal groups to facilitate their illicit activities (Williams, 1997). These states usually play major roles in money laundering; and it usually states in political or economic transition that become transit states as they are in short supply of capital (Williams, 1997).

In the view of this dissertation, states involved in TOCs can summarily be described as follows: home states are those that are not functioning as they should be, making it easier to be penetrated to be centres of staging TOCs. Host states are those consisting populations with appetites for goods or services being manufactured and sold by actors involved in TOCs. Trans-shipment states on the other hand have good infrastructure to be used in transporting goods emanating from illicit activities. Lastly, service states specialize with financial institutions that operate in a manner that



can be used to facilitate TOCs. It is possible for one country to be home, host, trans-shipment and service state for TOCs simultaneously as it is the case with Ghana and South Africa.

#### **1.1.2.2. Drug trafficking**

This is an illegal activity which involves cultivation, manufacture, distribution and trading in substances considered as illegal drugs by law (United Nations, 2012). According to Spitzer (2011) it involves trading in illegal drugs across borders mostly carried out by organized crime groups to generate wealth. Moreover, drug trafficking also includes being in possession of a certain amount of illegal drugs with an intention to sell (Ering, 2011). In the context of this dissertation, drug trafficking is not only limited to hard drugs like cocaine. Drug trafficking also includes drugs like marijuana as they are considered illegal in both Ghana and South Africa.

#### **1.1.2.3. Money laundering**

There is a strategic link between money laundering and most TOCs. This is because the occurrence of money laundering involves a process by which criminal groups conceal the nature of their wealth to avoid being subjected to law enforcement (United Nations, 2012). It precisely involves a process in which revenues received through illegal activities such as drug trafficking are channelled to legitimate entities so as to be recycled and be used as new clean money (Pereira, 2003). Money laundering is a three staged process. Money is firstly disassociated from crime, secondly the source of money is concealed to avoid law enforcement and finally laundered money is given to criminal groups and its source is concealed (United Nations, 1998). Laundered money is made to appear as if it was obtained through legitimate means which is the main motive behind money laundering (Madzima, 2003). By dealing with money laundering a number of TOCs can be resolved (Madzima, 2003). In the view of this dissertation, money laundering does not necessarily need to be carried out through financial institutions like banks, but it can occur without involvement of these

institutions. Money laundering in the context of this dissertation should strictly be viewed as an attempt of legalising money emanating from sale of illicit goods or services.

#### **1.1.2.4. Corruption**

In a broad sense, corruption is the abuse of power for self-interest. It encompasses the payer and receiver of a bribe, the bribe payer's aim is to influence the decision of the person in authority who is the receiver of a bribe (Transparency International, 2008). Corruption may also include extortion and misuse or misapplication of public funds and resources (Transparency International, 2012). In relation to this dissertation, corruption is simply a process by which officials are rewarded to facilitate the occurrence of illicit operations and or transactions.

### **1.2. Review of related literature**

The subject of TOCs has attracted the attention of many scholars. Some of them have looked at the issue from global and regional perspectives with reference to Ghana and South Africa (Gelbard, 1996; Venter, 1996; Williams, 1997; Matthews, 1997; Kunaka, 2002; Irish and Qhoshelani, 2003; Boone et al, 2003; Madzima, 2003; Standing and van Vuuren, 2003; Sung, 2004; Vines, 2005; Wannenburg, 2005; Addo, 2006; West, 2006; Patrick, 2006; Goodwin, 2007; Mazzitelli, 2007; Sheptycki, 2007; De Andres, 2008; Ellis, 2009; Shehu, 2009; Wyler and Cook, 2009; Bolaji, 2010; Obi, 2010; Haken, 2011; Goudsmid et al , 2011; Goga, 2012; and Reid, 2012), while others used the two countries as case studies (Shaw, 1998; Bernstein, 1999; Minnaar, 1999; Gastrow, 2001; Legget, 2002; Standing, 2003; Desai, 2004; Akyeampong, 2005; Aning, 2007; Mthembu-Salter, 2006; Goredema, 2007; Addo, 2008; Bruce, 2008; and Hubschle, 2011).

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### **1.2.1. Global perspective on Ghana**

The study of TOCs has been based on a global perspective in which global configurations and events have somehow influenced the occurrence of TOCs like drug trafficking and money laundering. Specifically, the neoliberal view has been central in most arguments in the exposure of countries in West Africa like Ghana to TOC. In addition, global events have also played an important role in the utilization of West African states for TOC.

#### **1.2.1.1. Neoliberal view**

It has been common for most authors to analyse the problem of TOCs through the neoliberal view. The argument in most of the literature has been that the global rise of neoliberal ideas has seen most states leaving their roles to other actors which has weakened or is a symptom of weakened state capacities. Matthews (1997) looks at how states have lost authority after the end of the Cold War with the internationalisation of most enterprises facilitated by the global availability of financial institutions. These financial institutions are utilizing technology which has offered criminal groups opportunity to take advantage of these innovations (Matthews, 1997).

Globally, some TOCs are associated with weak states, which may or may not be correct, as it is argued that it must be a weak but a functioning state (Patrick, 2006). Moreover, the presence of ungoverned spaces according to Patrick in most weak states (2006) is instrumental in facilitating TOCs. The issue of some state functions being carried out by private actors due to incapacity according to Sheptycki (2007) creates conducive conditions for TOCs. For example, crime control is cited as one of the functions carried out by private actors in some countries which is a symptom

of state incapacity and leads to further incapacity of the state (Sheptycki, 2007). This is on the basis that these business groups supplying security to the state do partner with actors engaging in TOCs in some instances (Sheptycki, 2007).

To further this argument, Haken (2011) discusses how troubling some TOCs in developing countries can be and mentions South America and West Africa as regions of concern. West Africa according to Aning (2007) has become a convenient trafficking route for Colombian drug cartels, making the region to be labelled as ‘the new “drug triangle”’. Addo (2006) cites how criminal groups are taking advantage of economic integration in West Africa which has permeated free movement of illicit goods and criminal groups across borders. De Andres (2008) cites economic and social conditions, poor administration, corruption, post conflict issues, as well as weak border policing as the causes of TOCs in West Africa.

#### **1.2.1.2. Global events**

A number of scholars have cited how global events have played a role in the involvement of some countries on TOCs. For, De Andres (2008b) a number of events affected drug trafficking routes. First is the shift of demand of cocaine from the US to Europe from the 1980s (De Andres, 2008b). Secondly is the weakening value of the US Dollar at the expense of Euro (De Andres, 2008b). Third is the improved law enforcement towards drug supply into the US which increased the surplus of drugs in Europe (De Andres, 2008b: 204). De Andres (2008b) also notes that the drug cartels from Latin American countries chosen West African states as transit routes as most of these countries are experiencing political instability. According to Ellis (2009), during the 1960s Nigerian and Ghanaian criminal groups were involved in the trafficking of marijuana to Europe which

shifted to trafficking cocaine and heroin from 1980s. In a detailed analysis by Goodwin (2007) the factors for West Africa's exposure to drug trafficking are cited as follows: location of West African countries, lack of authority on costliness, and weakening institutions (Goodwin, 2007).

Wyler and Cook (2009) analyse the changing international drug market differently. They argue that factors responsible for West Africa becoming an important transit route for drug smuggling to Europe from Latin America are push as well as pull factors. The push factors are: tightening law enforcement against drug trafficking in Northern America, the increasing competition amongst criminal groups, as well as the declining value of the US dollar (Wyler and Cook, 2009). The pull factors are relative location of West African states to Europe, as well as weak institutions (Wyler and Cook, 2009). In a way Wyler and Cook show that although the issue of drug trafficking has been dealt with but to some extent such attempts have been counterproductive as the problem has spilled over West African states. Reid (2012) mentions how the changing international drug market has been facilitated in West African countries amongst them being Ghana used as transit route for drug trafficking. A number of factors are mentioned as being responsible for the high exposure of Ghana and other West African states to TOCs like drug trafficking and money laundering. For Reid (2012), the behaviour of individuals and the tolerance of weak laws in West Africa are contributing factors to TOCs. Moreover, Reid (2012) also states that although the use of West Africa as a transit route to Europe has increased but this has also been sustained by the increasing consumption of drugs in this region.

### **1.2.2. Global perspective on South Africa**

Scholars have looked at TOCs in South Africa through a global perspective in which the globalisation process has contributed to South Africa's involvement to a number of TOCs.

### **1.2.2.1. Globalisation**

The literature has constantly argued that globalisation is instrumental in facilitating the problem of TOC. According to Williams (1997), globalisation has allowed free flow of information through the creation of convenient communication systems making the world borderless. The availability of communication systems and good banking systems has promoted TOCs in a manner that some countries can play multiple roles in these activities (Williams, 1997).

Globalisation has brought an end to the issue of borders being secured. In a brief analysis by Goga (2012) South Africa's involvement to TOCs is due to the following: increasing trade on borders, the utilization of technology, and the efficiency of financial systems. Specifically the paper by Goga also argues that globalization has been coupled by increased trade across borders which have made a switch from legal to illegal economy easy. The end of apartheid in the mid-1990s opened borders of a country that is amongst major economies in Africa and thereby encouraged criminal groups to see the country as a destination for illicit activities (Goga, 2012). Secondly, the use of technology in TOC has been noted, in South Africa scams have been carried out through the internet in some instances (Goga, 2012). Thirdly, the globalization process has not neglected financial systems as it has improved their efficiency but criminal groups have taken advantage of these improvements (Goga, 2012). Although the situation has improved in South Africa with laws to deal with the issue, most financial institutions have been used in money laundering (Goga, 2012). Lastly, the ease of forming criminal networks is part of the package from the globalization process with migration services playing a major role. In the case of South Africa, most TOCs can be linked with local criminal groups forming strategic networks with foreign criminal groups (Goga, 2012).

### **1.2.3. Regional perspective on Ghana**

Quite a number of scholars studying TOCs have studied West Africa and have mentioned the role Ghana has played with other countries in the region on perpetuating TOCs. Some of the issues are: poverty and inequality, as well as governance.

#### **1.2.3.1. Poverty and inequality**

An ample amount of literature has argued that the issue of inequality in West Africa permeates the occurrence of some TOCs in the region. In a document prepared by the United Nations (2005), poverty being reflected by high unemployment rate of the youth leads to TOC being seen as a lucrative business which has seen a number of people being recruited by criminal groups. This is seen through the get rich culture which promotes acquisition of wealth through quick illicit means (United Nations, 2005). In a study profiling the issue of small arms proliferation in West Africa, Vines (2005) argues that unemployment of the youth has encouraged an increased participation in conflicts due to easy access to small arms. With the availability of skills and equipment to manufacture small arms in Ghana, criminal groups have been able to access these arms (Vines, 2005). The arms are moved across borders which is a TOC in itself thereby giving access to unemployed youth to participate in conflicts, and use them in the carrying out of other TOCs (Vines, 2005).

The interplay between how states are governed and harsh economic conditions expose West Africa to numerous TOCs in which money is used in corrupting state institutions (De Andres, 2008). This does not only cripple state governance but also interferes with economic growth. De Andres (2008) further argues that the inability of most West African states to ensure economic security has been instrumental in creating favourable conditions for the occurrence of TOCs. To further this

Wanneburg (2010) looks at TOCs in relation to poverty and inequality in West Africa and concludes that high rates of unemployment especially of the youth has made it easier for young males to be deployed as troops for criminal activities. On the other hand poor women from rural areas of West Africa fall prey to human trafficking which is another TOC (Wanneburg, 2010).

#### **1.2.3.2. Governance**

Governance has been blamed for the occurrence of TOC in Western Africa. Wannenburg (2005) differentiates TOCs troubling West Africa in relation to how they affect societies in the region, the actors involved and the implications of their actions on the ability of the state to maintain its capacity. De Andres's (2008) analysis on drug trafficking in West Africa stated that lack of state policing in some regions of West Africa has created opportunities for criminal groups engaged in drug trafficking. Moreover, the lack of capacity of the states in terms of the availability of resources has serious implications on the part of the state regulating itself which has subjected underpaid officials in the justice system into taking bribes from criminal groups (De Andres, 2008). From Shehu's (2009) point of view, drug trafficking has been part of West Africa for quite a long time, this has been coupled by criminal groups able to manipulate decisions of states in relation to law enforcement.

Moreover, Bolaji (2010) argues that the presence of ungoverned spaces as well as bad governance indicated by lack of accountability, transparency, equity and law enforcement has created necessary conditions for TOC in West Africa. Furthermore, TOC specifically terrorism in the region has indicated how scarce resources (mostly lack of advanced technological devices) are facilitating TOCs in the region (Bolaji, 2010). Obi (2010) looks at the issue differently and in a broader perspective. According to Obi the rise of terrorist attacks in West Africa has been facilitated by illicit funds from various TOCs.



The security aspect of most states is partly to blame for the problem in terms of skills shortages in the army and lack of accessing intelligence. There has been too much emphasis on the security aspect of West African states in terms of policy making while deeper issues like socio-economic background of these countries have been neglected. In a recent paper by Goudsmid et al (2011) which looks at governance and security in West Africa, the ultimate solution to TOC is said to be dealing with it from a regional as well state level. Moreover, these authors highlight that a number of West African states are not capable enough as far as capacity is concerned in dealing with TOCs at state level. Furthermore, state incapacity in most West African states according to Goudsmid et al (2011) is being epitomised by the use of private security companies in beefing up capacity for most countries in this region which is counterproductive.

Addo (2006) makes a remarkable analysis in which he basically indicates which locations, sectional groups and conditions are associated with which forms of TOCs. To him, drug trafficking and money laundering are more common in the region with Ghana, Togo, Benin and Nigeria being transit states (Addo, 2006). On the other hand, money laundering incidents are reported in Benin, Senegal and Nigeria as these states are used as transit routes (Addo, 2006). Moreover drug trafficking to which Ghana is a major transit route, involves all sectional groups playing a role as it involves state officials, and the youth seeking better economic opportunities (Addo, 2006). Money laundering appears to be dominated by wealthy business people and state administrators while lack of properly trained staff and availability of effective anti-money laundering mechanisms are blamed for money laundering (Addo, 2006).

Mazzitelli (2007) shows a different aspect of how state incapacity has created conditions necessary for a number of TOCs in West Africa. Economic problems have subjected most countries in this region to underdevelopment, this being shown by lower salaries of key state officials like judges

and prosecutors (Mazzitelli, 2007). Moreover, some TOCs have also shown a closer link with poverty in West Africa, indicating state's inability to ensure economic development (Mazzitelli, 2007). The dire consequences according to this author are reflected by human trafficking more specifically amongst the unemployed youth.

#### **1.2.4. Regional perspective on South Africa**

Scholars have also looked at TOCs using the regional perspective in which Southern Africa has been profiled and South Africa's role or extent of damage to the problem of TOCs has been cited. Capacity and resources have been issues of concern in the literature. A few issues are addressed in this regard. These are discussed separately below.

##### **1.2.4.1. Capacity**

The issue of capacity has been at the centre of the study of TOCs in Southern Africa. Gelbard (1996) argues that the state incapacity of most countries in Southern Africa has played a crucial role in the ease commission of TOCs in the region (Gelbard, 1996). TOCs in most Southern African states have been due to out of date legislations in relation to complicated crimes, constrained financial budgets in institutions, and challenged justice systems (Gelbard, 1996). Moreover, the improved capacity of some Southern African states to bolster economic trade such as the availability and efficiency of air, land and sea transport has made it easier for drug traffickers in the region (Gelbard, 1996).

Moreover Southern Africa houses South Africa which has played a key role in TOC since 1994 due to the end of apartheid which saw the country joining international and regional trade (Gelbard,

1996). Kunaka (2002) also looks at the issue of TOCs in Southern Africa and argues that most countries in the region do have legislations aimed at dealing with TOCs but the problem is the lack of capacity to enforce such laws. Furthermore, unemployment has influenced the participation of the unemployed in crimes like drug trafficking (Kunaka, 2002). The utilization of technological devices in these crimes makes it difficult for officials in the region to detect these crimes while they are committed. To further this, Irish and Qhobosheane (2003) look at TOC in Southern Africa with specific emphasis on South Africa's role to the sustenance of the problem. The factors contributing to the problem are: porosity of borders, unavailability of modern infrastructure, corruption, presence of gangs, poverty as well as the booming market of counterfeit goods (Irish and Qhobosheane, 2003). Moreover, in a study by Boone et al (2003) which looks at TOC in Southern Africa, drug trafficking appears to be a crime of concern in most countries situated within this region. Other TOCs noted in the region are smuggling of migrants, money laundering together with drug trafficking which is mostly based in South Africa due to its economic strength (Boone et al, 2003). The reason for the occurrence of these crimes in Southern Africa are incapacity in terms of law enforcement, shortage of resources especially personnel, and lack of proper methods used in collecting data on TOC trends (Boone et al (2003).

Madzima (2003) also looks at the issue of the capacity of most Southern African states. Money laundering in countries within this region is facilitated by incapacity because they do not possess the necessary tools to deal with this scourge. Moreover, the investigation of money laundering cases in most Southern African states is difficult due to the fact that most of these states do not have specific anti money laundering legislations put in place (Madzima, 2003). In addition, if pieces of legislations are present they are: narrow in scope and out-dated as they do not acknowledge new methods used in money laundering, and are mostly non-complementary towards each other

(Madzima, 2003). Furthermore, Standing and van Vuuren (2003) also conducted a study on money laundering in relation to Southern Africa using auditors from countries within this region and argue that particular TOCs are sometimes ignored in most countries.

#### **1.2.4.2. Readily available resources**

The use of drugs in most Southern African countries which includes South Africa has been due to the availability of resources used in the commission of numerous TOCs. A number of countries in Southern Africa according to Venter (1996) are able to cultivate, produce, and process drugs. For example, South Africa, together with Zambia, Botswana, and other Southern African countries play a role in the production of mandrax while cultivation of cannabis is dominant in ungoverned spaces of South Africa, Lesotho and Swaziland (Venter, 1996). In addition, South Africa, especially Johannesburg, is the final destination of most drugs. Most TOCs are connected as there is a close relationship between drug trafficking and money laundering, while routes used for drug trafficking are also used in the smuggling of stolen cars, weapons and natural resources (Venter, 1996).

A slightly different study was also carried by Shaw (2003) in which the role of each country located in Southern Africa is analysed in relation to TOCs. Lesotho and Swaziland according to the study are important routes for drug trafficking into South Africa and the smuggling of stolen assets from South Africa (Shaw, 2003). Mozambique is also a transit route for drugs to South Africa mostly regulated by Nigerian and Pakistan cartels, while Angola is a trans-shipment state for drugs to South Africa (Shaw, 2003). According to Shaw, Zimbabwe on the other hand has had a drug market while it is also used as a route for drugs to South Africa, and Zambia is also one of the trans-shipment states for drugs into South Africa

### **1.2.5. Case studies on Ghana**

The profiling of Ghana in relation to TOC has captured the attention of some scholars in the study of the subject at hand. Geography and socio-economic issues, nature and characteristics of actors, as well as issues relating to law enforcement have been said to be contributing variables to the problem in Ghana.

#### **1.2.5.1. Geography and socio-economic issues**

A number of scholars have analysed TOC in Ghana based on its geographical location and socio-economic issues. The issue to be noted is the fact that Nigerian drug traffickers have relocated their activities to Ghana due to its strategic location (Bernstein, 1999). Akyeampong (2005) looked at drug trafficking and diasporas in Ghana and was of the view that drug trafficking came into existence in Africa due to security being beefed up in North America and Europe. The shift made Nigeria a major trafficking route for drug cartels from South America (Akyeampong, 2005). Moreover, Nigerian drug cartels moved their activities to Ghana as they were being targeted by law enforcement agencies in Nigeria. Nigerian traffickers are in possession of a Ghanaian passport and use it as a shield against law enforcement agents thereby allowing easy access to facilities like airports (Akyeampong (2005).

In an analysis that looks at drug economy in Ghana by Bernstein (1999), it is argued that problems around development in Ghana are detrimental as they make it easy for criminal groups to recruit drug couriers through economic incentives. Moreover Ghanaian drug traffickers are also in partnership with citizens from other West African countries especially Nigerian citizens (Bernstein, 1999). According to Bernstein, Ghana has not only served as a transit route for drug trafficking, but

drug consumption has been noted in urban areas. Drug consumption has been cited as being based on social stratification, with cocaine being consumed by middle class while cannabis has been noted in poor regions (Bernstein, 1999). The issue to be noted is the fact that Nigerian drug traffickers have relocated their activities to Ghana due to its geographical location (Bernstein, 1999)

#### **1.2.5.2. Nature and characteristics of actors**

The nature and characteristics of actors involved in TOC has also been said to be facilitating the problem and making it difficult to be dealt with. Aning (2007) looks at TOCs in Ghana and argues that the structure of criminal groups in Ghana and the rest of West Africa in general is such that it is difficult to challenge their criminal activities. The Ghanaian criminal groups are difficult to understand in terms of their hierarchy and the extent of their involvement to illicit economy (Aning, 2007). Moreover, Aning (2007) argues that the Ghanaian groups involved in TOC are said to be divided into two categories namely those structured along family lines usually involved in licit economy as well as those that are small.

#### **1.2.5.3. Law enforcement**

The inability of Ghana to ensure law enforcement in dealing with TOC has been the reason for its occurrence in the country. In a study that looks at Ghana's foreign policy in relation to security issues in West Africa. Addo (2008) found that non-state and state actors both play a role in the occurrence of illicit activities. A number of interventions have been made such as the passing of legislation, public education programmes to deal with TOCs. It is the lack of proper implementation

and enforcement of some of these laws and programmes which has exacerbated TOCs like arms, human, and drug trafficking in Ghana.

#### **1.2.6. Case studies on South Africa**

The case studies on South Africa in relation to TOCs have pointed out the transition period as a critical one in relation to TOCs. The nature and characteristics of actors have been central to the problem, with state capacity and corruption worsening the problem.

##### **1.2.6.1. Transition period**

Scholars on the subject of TOC in relation to South Africa blame the transition period as a critical phase in relation to TOC. Shaw (1998) argues that TOC levels usually escalate during transition periods, a case in point being the Soviet Union. According to Shaw (1998) South Africa saw an escalation of TOCs due to the following: fragmentation and rearrangement of state institutions, and neglect of capacity building programs. To further this, Desai (2004) points out that the transition period saw state incapacity increasing especially the justice system, where managerial problems were experienced.

##### **1.2.6.2. Actors**

Some of the authors have analysed the issue of TOCs in South Africa based on the nature and characteristics of the actors involved. Gastrow (2001) shows how criminal actors operate in which international and local criminal groups converge for the commission of TOC. It is argued that the

penetration of South Africa during the transition period by international criminal groups like Chinese triads and their connection with local gangs was problematic (Gastrow, 2001).

In an analysis of organized crimes in the Western Cape, Standing (2003) is of the view that state capacity and profiles of actors like age, gender, and the level of education have been instrumental in exposing South Africa to TOCs. It is argued that the actors involved in TOCs include professionals from different fields, public officials, and those who have become career criminals (Standing, 2003). Moreover, career criminals are mostly young males able to gain support of their communities by offering financial support from illicit proceeds (Standing, 2003).

Legget (2002) looks at the drug market in South Africa and makes a number of conclusions. From Legget's point of view age, race, gender and region are determining factors in the drug supply and consumption due to the following:

**Supply aspect:**

- Nigerian nationals are mostly involved in the supply of drugs and rarely consume them as of the 26 % in a sample of 57 Nigerian nationals arrestees tested positive on cannabis and none tested positive on cocaine; and
- South Africa is a major producer and exporter of cannabis, major cannabis producers are mostly African rural poor farmers.



**Consumption aspect:**

- Consumption of drugs is mostly by younger males as 65% of the tested arrestees tested positive on drug use were males;
- The consumption of drugs is also based on racial lines as club drugs, cocaine was mostly consumed by white, coloured, youth and sex workers. Mandrax on the other hand was highly consumed by Indians and coloured, while dagga was detected from all racial groups including Africans.

**1.2.6.3. Issue of corruption**

Another set of scholars are of the view that corruption has played an important role in the occurrence of a number of TOCs in South Africa as it challenges state capacity. In a study by Minnaar (1999), it is argued that the strategic relationship between corruption of a state and TOCs has been reduced to a symbiotic relationship between the two. The corruption of state officials especially those serving in immigration services has a critical role in the occurrence of TOCs. In the Department of Home Affairs, for an example, foreign criminal groups have been able to pay some officials to obtain counterfeit identity documents (Minnaar, 1999). The incapacity of the state has played a role in failing to deal with corruption and TOCs, as there is less accountability, shortage of properly trained personnel and resources (Minnaar, 1999).

Minnaar (1999) further mentions a number of TOCs, but one thing stands out with drug trafficking which is said to have been facilitated by state officials who protect drug traffickers from being caught. Bruce (2008) offers more insights into the issue of corruption of the state officials. Specifically according to Bruce (2008), there have been instances where police bosses have

participated in drug trafficking, illegal immigration, and other illicit activities. In a recent analysis by Hubschle (2011), the participation of security guards and police officers has been said to be as a result of low salaries.

#### **1.2.6.4. State capacity**

State incapacity has been said to be one of the contributing factors to TOCs especially the aspect of law enforcement. In a monograph by Mthembu-Salter (2006) which looks at money laundering in South Africa, a number of issues emerge such as money laundering through purchase of estate property. In addition, measures to deal with money laundering are coined in a manner that they only seek to detect instead of preventing. Most measures are also economically unsuitable as they promote economic exclusion of certain societal groups (Mthembu-Salter, 2006). Mthembu-Salter (2006) also looks at money laundering in South Africa and argues that the reasons for this problem are as follows: unregulated informal sector, the stability of the South African Rand, and the property protection rights.

Goredema's (2007) analysis on East and Southern African Anti-Money Laundering Group's (ESAAMLG) role in dealing with money laundering identified a number of issues pertaining to money laundering. Member states of ESAAMLG (including South Africa) agreed that anti-money laundering initiatives must be such that state capacity is beefed up through: policy making, law enforcement, and addressing challenges faced by financial institutions and the public (Goredema, 2007). Furthermore, Financial Intelligence Centre (FIC) added that means against money laundering which were approved by United Nations Security Council in 2005 must be adhered to. They include the creation of preventive measures to protect institutions from being used for money

laundering, enforcement of through investigation and punishment in cases of money laundering, as well as ensuring international cooperation through availability of infrastructure (Goredema, 2007). In relation to these international measures a number of state units and institutions were set up in South Africa to strengthen state capacity in the fight against money laundering. The formation of the units and institutions dealing with prevention of money laundering has been successful although there are a number of challenges to be attended (Goredema, 2007).

### **1.3. Theoretical framework**

A number of theories that have analysed TOCs especially those with sentiments of International Relations tend to ignore issues within states in terms of how they play a role in the occurrence of TOCs (Agnew, 1994). Issues of how states are governed are of importance in explaining the extent of their vulnerability or role to TOCs. It is for this reason that this dissertation looks at TOCs using the concept of state capacity as a theoretical framework.

#### **1.3.1. The concept of state capacity**

The principal theory on which this study is based is the concept of state capacity. It helps in explaining the variables that are responsible for drug trafficking and money laundering in Ghana and South Africa.

### **1.3.1.1. Defining the concept of state capacity**

State capacity can be described as the “power to facilitate economic growth through policies and maintain good governance, which can be achieved through maintaining accountability, rule of law and having quality institutions” (Englebert, 2000: 17). Moreover, finances and level of corruption should not be excluded as indicators of state capacity (Levy, 2004). The level at which the state invests in education and infrastructure has a relationship with the capacity of the state (Englebert, 2000). This is based on the fact that a high number of educated populations translate to high economic productivity in the same way as having infrastructure like telecommunication, roads, and railways bolsters economic productivity. There are four factors considered to measure state capacity namely: regulatory capacity, administrative capacity, technical capacity, and extractive capacity (Brautigam, 1996).

Regulatory capacity encompasses the creation and implementation of the law (Brautigam, 1996). According to Brautigam, to ensure its legitimacy, the state must ensure that its ability to create and enforce laws outweighs the capability of the society to create and enforce rules or laws it favours. Moreover, a typical example is where a state is made up of different cultural groups which to some extent may create preference towards creating and enforcing particular laws which may be linked with particular cultural practices. Legitimate authority, order, and security must be ensured as the basic function of the state in relation to law enforcement (Joshi, 2011). Regulatory capacity is measured through how rules are enforced such as toleration of warlords and the black market (Brautigam, 1996). Poor legislation and law enforcement, inability to monitor finances, and lawlessness through high crime statistics indicates the incapacity or weakness of state capacity (Van De Walle, 2003).

The second factor to which state capacity can be measured is administrative capacity. This involves managing resources and staff involved in the delivery of goods and services on behalf of the state through maintaining accountability (Brautigam, 1996). Moreover, accountability and quality institutions should exist and there must be regulations to ensure that the state is able to deal with corruption effectively (World Bank, 1997). Administrative capacity in more practical terms involves recruiting, attracting, training and retaining staff with ample potential through rewarding good performance (Joshi, 2011). Moreover, it also includes ensuring stability in terms of staff responsible for administrative tasks of the state (Brautigam, 1996). To ensure improved performance, the environment in which the staff operates is of importance (World Bank, 2005). In attracting and retaining performing staff motivation and discipline are significant elements (World Bank, 1989).

The manner in which staff promotion occurs and the manner in which poorly performing staff are dealt with plays a role in the administrative capacity of a state (World Bank, 1989). Implementation of measures like recruiting only highly qualified individuals and letting poorly qualified or least performing staff leave the public sector is of importance (World Bank, 1989). In retaining competent personnel within the public sector, promotion and wage pay must be based on performance of each employee so as to assist in maintaining administrative capacity (World Bank, 1989). The turnover of staff, ratio of staff involved in government operations and level in which goods and services are delivered indicates state capacity in relation to administrative capacity (Brautigam, 1996: 84). The brain drain due to increasing Non-Governmental Organizations (NGOs) has been blamed as the major cause of administrative incapacity in most countries where states now have to compete with such NGOs (Van de Walle, 2003).

Technical capacity refers to the necessary skills and information needed to take and execute technical judgments; they involve creation, monitoring and evaluation of plans (Brautigam, 1996). Shortage of well-trained technical staff is a challenge to improving technical capacity (World Bank, 1989). Technical capacity is measured through the ability to generate informative statistics, level of enrolment in strategic fields like engineering, accounting and availability of strategic institutions (Brautigam, 1996). Moreover, it involves creating monitoring standards for certain products and transactions. It also includes evaluating plans to be carried out (Brautigam, 1996).

Extractive capacity is the ability of the state to raise funds which are to be used in achieving its main objectives, these funds are to be used in the process of the state working towards fulfilling its objectives (Brautigam, 1996). This is the most essential element of state capacity. This is due to the fact that the implementation of policies, staff in public administration, retrieval of information, technology and resources to monitor officials are costly (Joshi, 2011). Extractive capacity is central in the state's ability to strengthen other capacities, and therefore tells a full story about the state's capacity or potential capacity. To measure extractive capacity the Gross National Product (GNP) is considered (Brautigam, 1996). Moreover, to measure extractive capacity the ability of the state to be self-reliant which relates to foreign aid and the different revenues the state has and the extent of contribution to state's financial standing is also looked at (Brautigam, 1996).

#### **1.3.1.2. The link between transnational organized crime, corruption and state capacity:**

There is no doubt that there is a link between TOC, money laundering, corruption and state capacity. This is because drug trafficking and money laundering are facilitated by corruption which also constrains the capacity of the state. Drug trafficking is one of the most profit making TOCs,

this practice gives opportunities for corruption of the state by criminal groups (Van Dijk, 2007). Laundering of profits from drug trafficking is done using a number of strategies, mostly through business transfers using non existing enterprises (Haken, 2011). Furthermore, financial institutions like banks are mostly used in the process of money laundering (Bolaji, 2010). Profits from illicit activities, whether laundered or not contribute to the occurrence of other forms of TOCs, and consequently the incapacity of the state (Goredema, 2005). Corruption of a state by criminal groups leads to: state incapacity through lawlessness, inability of the state to regulate ports and borders, and underdevelopment indicated by poor salaries of state officials (Mazzitiel, 2007). All the above mentioned factors are conducive for TOCs like drug trafficking and money laundering. In addition, state institutions are also undermined or compromised through corruption (Haken, 2011). In a nutshell, the presence of drug trafficking, money laundering or TOCs in general makes it extremely difficult for the state to exercise its regulative, administrative, technical and extractive capacities.

The concept of state capacity was deployed in the following manner as a theoretical framework:

The concept of state capacity explained the nexus between drug trafficking, money laundering and corruption as state incapacity promotes these crimes. It also explained how corruption of a state as an indicator of state incapacity is conducive for TOCs like drug trafficking and money laundering.

#### **1.4. Methodology**

This research focused on drug trafficking and money laundering in Ghana and South Africa. As pointed out, drug trafficking is the most profitable TOCs in many countries. Drug trafficking proceeds form an important portion of money laundering which may be used to corrupt state officials, and purchase instruments to facilitate drug trafficking and money laundering.

The research paradigm used in this study was the qualitative research method. The study was conducted through textual analysis of secondary sources. From a general perspective, the qualitative research method creates information that describes the phenomenon and encompasses carrying out research in a manner that will allow research to incorporate new information that may emerge (Brynard, and Hanekom, 2006). Moreover, the research also used the comparative case study orientated method whereby two countries were closely studied to establish how the two TOCs affect these countries and how they deal with them.

The research analysed retrieved information from secondary sources: books, websites, and reports of global and regional organizations, journal articles, conference papers, media reports as well as legislations on drug trafficking and money laundering. Specifically, the following sources of information were consulted:

- The use of books and articles was crucial for this research because such sources provided an important historical perspective to the issue of TOCs in Africa. In addition, they were useful in providing the theoretical framework and how the theoretical debate has progressed.
- Papers, websites, and reports prepared from global and regional bodies such as the United Nations, Transparency International and World Bank reporting on Ghana and South Africa in relation to TOCs provided useful information in terms of recent trends and statistics.
- Media outlets (newspapers, television etc): The usefulness of the information from the media is based on the fact that it is fairly updated in terms of reporting incidents relating to TOCs in Ghana and South Africa.



- Pieces of legislation on drug trafficking and money laundering and government reports from Ghana and South Africa were consulted as these documents provided crucial information on progress of legal frameworks.

The decision to use the comparative case study orientated method was on the basis that it provided an in-depth analysis of each country therefore providing a clear picture of the causal factors of each case. From a methodological point of view, the case study approach allows the researcher to go deeper in understanding the case(s) being investigated. This was the basis for using the case study approach in the present study.

The period from 2001 to 2011 was the focus of the analysis as it marks an important period in the fight against TOCs. The unfortunate and tragic events of 11 September 2001 in the US have led to the global search for answers on how terrorist organizations are funded and how those outlets should be closed to prevent a future recurrence of 11 September 2001. Therefore since 2001 countries all over the world have resolved to forge a common front to tackle the menace of drug trafficking and money laundering. The present study is a contribution to that discussion.

## **1.5. Reasons for the study and limitations**

This research does not look at other forms of TOCs and TOCs beyond African borders in relation to state capacity.

From the literature discussed above, it is clear that, corruption and state incapacity have played a major role in the vulnerability of Ghana and South Africa to drug trafficking and money laundering. However, there are gaps in the literature. Firstly, the current literature does not adequately identify

who the actors are, the interests they represent, their incentives, and power dynamics. Secondly, the literature has also not shown the changing roles of Ghana and South Africa with regards to drug trafficking and money laundering. Thirdly, the literature does not state which aspect of state capacity is most instrumental in exposing Ghana and South Africa to drug trafficking and money laundering. Fourthly, the literature does not examine mechanisms already in place to strengthen state capacity in relation to drug trafficking and money laundering such as pieces of legislation and funding.

This research extends the literature by examining the interplay between state incapacity in relation to the vulnerability of Ghana and South Africa to drug trafficking and money laundering. Specifically, it uses the concept of state capacity as a theoretical framework to analyse drug trafficking and money laundering in Ghana and South Africa with specific reference to:

- State incapacity and its attendant challenges of drug trafficking and money laundering.
- Corruption of the state by criminal groups as the main tool of incapacitating the state.
- The ability of the actors involved in drug trafficking and money laundering to be in possession of technological instruments that rival those of the state.

TOC is a subject of major concern and interest in international relations. Therefore, this research makes a contribution to the debate on the subject in Ghana and South Africa. Furthermore, the study of TOCs in the two countries gives a comparative dimension which highlights the different variables that have contributed to the vulnerability of the two countries. It also makes recommendations that might reduce the incidence of TOCs.

Ghana was selected because it has become an important transit route replacing Nigeria for cocaine to Europe in West Africa and an important economic player. South Africa was also chosen because it is an important economic player in Africa and a significant trafficking route in Southern Africa.

Drug trafficking was selected because it is the most profit making TOC while money laundering forms an important aspect of TOCs as it is where most TOCs converge. Drug trafficking is not an exemption as it has a strategic relationship with money laundering precisely through the conversion of drug proceeds into clean money. Drug proceeds are used to corrupt state officials at times and purchase instruments that facilitate drug trafficking. In short, money laundering is a meeting point for TOCs.

#### **1.6. Research problem and objectives: Broader issues investigated**

Two broad issues are investigated by the dissertation.

Firstly, it explores drug trafficking and money laundering in terms of the typologies, their relationship and how they affect society as well as the presence of conducive conditions for their occurrence. This answers the question of why these two transnational organized crimes are common.

Secondly, the relationship that exists between corruption and state incapacity is explored in Ghana and South Africa by using the incidence of drug trafficking and money laundering. This addresses two things. Firstly, it answers the question of the actors involved in drug trafficking and money laundering in Ghana and South Africa, and their interests, incentives and resources. Secondly, it

examines the issue of the involvement of state officials in drug trafficking and money laundering in Ghana and South Africa.

## **1.7. Structure of the Dissertation**

Chapter 1, “Introduction and Conceptual Framework”, deals with definition of terms, the review of the literature, and outlines state capacity as the principal theory on which the dissertation is based, methodology and limitations of the dissertation.

Chapter 2, “Global Overview on TOCs”, is devoted to a historical analysis of TOCs, conditions that have been conducive for their evolution, their types and some implications for world politics, security and stability.

Chapter 3, “Drug Trafficking and State Capacity in Ghana and South Africa”, examines and discusses state capacity in relation to drug trafficking in Ghana and South Africa. Specifically, it discusses the efficacy of the legal and institutional framework put in place by the state and identifies the actors, their interests, incentives and resources and impact of their operations.

Chapter 4, “Money Laundering and State Capacity in Ghana and South Africa”, examines the occurrence of money laundering in Ghana and South Africa. Specifically, it examines the efficacy of the legal and institutional framework put in place by the state and identifies the actors, their interests, incentives and resources and impact of their operations.

Chapter 5, “Summary, Conclusions and Recommendations”, highlights the findings, lessons learnt and their implications. Some recommendations are also made to curb the incidence of drug trafficking and money laundering in Ghana and South Africa.

## **Chapter Two: The Evolution of Transnational Organized Crimes: A Global Overview**

### **2.1. Introduction**

History has always explained the evolution of any phenomenon. Transnational organized crimes (TOCs) are not an exception. This chapter engages in an analysis of the evolution of TOCs. This chapter firstly looks at crime groups and their typologies. It firstly looks at structural arrangements of criminal groups which are traditional and modern networks. The chapter then proceeds and looks at typologies of TOCs based on the conditions that allow for their occurrences or their effects, namely: predatory, parasitic, and symbiotic. The five most prevalent TOCs globally which are looked at are: drug trafficking, human trafficking, smuggling of migrants, trafficking in natural resources, and trading in fraudulent medicines. The chapter secondly looks at the history of TOCs and their evolutions which is marked by three periods. The first period is the 1400s to the 1900s. The second era is the period from 1910 to the late 1980s. The final epoch starts from the 1990s and goes to the early 2000s. The chapter finally looks at implications of TOCs for world politics.

### **2.2. Crime groups and Typologies of Transnational Organized Crimes (TOCs)**

#### **2.2.1. Structural arrangements of criminal groups**

In the occurrence of TOCs, there are two main groups that engage in this form of illicit activity. These groups are differentiated by how they are formed and or how they affect states to which they operate in. Traditional and modern networks are the main forms of groups that have existed and continue to exist in the occurrence of TOC.

##### **2.2.1.1. Traditional networks**

Traditional networks are hierarchical in their structure and tend to exist for a prolonged period of time (Wagley, 2006: 2). Much focus in terms of law enforcement is on these groups as they are said

to be playing a major role in the occurrence of TOCs (United Nations, 2002). The most prominent features of these criminal organizations are: division of labour, readily available ways of recruiting and promoting members, they also operate like legitimate enterprises (Framis, 2011). The reason for ample focus on these groups is on the basis that their presence is noticeable in societies. Their prolonged existence also means that their operations are for extended periods.

#### **2.2.1.2. Modern networks**

Modern criminal networks are loosely structured or decentralized (Wagley, 2006). These groups are very flexible in terms of revolving and adapting in new environments and the use of violence is minimal (Mazzitelli, 2004). Membership is usually smaller in numbers and is usually based on ethnic lines characterised by language differences (Mazzitelli, 2004). The size of these criminal groups in terms of membership is advantageous as it restricts law enforcement from detecting their activities. There is less focus on these groups which could be due to the fact that they may go as far as to operate with anonymity (United Nations, 2002). They differ considerably from traditional networks, in terms of their features, they are characterised by: lack of division of labour, recruitment mechanisms are not clearly defined, and rules are mostly informal (Framis, 2011).

#### **2.2.2. Typologies**

The effects of TOCs on the society may differ. The next two sections will provide a general overview on the effects and or conditions for the development of TOCs. The sections will then profile five most prevalent TOCs and reflect in relation to the conditions that allow their development and their effects on the society.

### **2.2.2.1. Effects and conditions of Transnational Organized Crimes (TOCs)**

There are three conditions that allow for the development and or the effects of TOCs on states. TOCs can develop out of and or be caused by: predatory, parasitic, and symbiotic conditions (Shanty and Mishra, 2008). This section will now look at the general overview of how TOCs can be predatory, parasitic and symbiotic.

#### **2.2.2.1.1. Predatory**

The predatory side of TOCs occurs when there is a deficiency or ban of particular goods and or services which therefore open opportunities for such commodities to be distributed illegally (Shanty and Mishra, 2008). It usually develops within states that are still at the early stages of economic development (Sung, 2004). Criminal groups pursuing predatory TOCs are in confrontation with state authority in the form of violence (Cockayne, 2008). The use of force through violence is the main feature in the occurrence of these forms of TOCs (Sung, 2004). Violence is mostly for defence as criminal groups are subjected to law enforcement (Serrano, 2002).

#### **2.2.2.1.2. Parasitic**

Parasitic effects of TOCs come as a result of the inability of the state to provide goods and services that it should be providing to the society. Examples range from protection services to licensing (Shanty and Mishra, 2008). These TOCs usually come as a result of authority gap or vacuum (Shanty and Mishra, 2008). The state usually struggles to maintain control which draws criminal groups to exploit and leads to the further downfall of state capacity, as funds obtained further constrain state authority in the form of corruption or violence (West, 2006). Criminal groups are in confrontation with the state but are using state resources sustainably (Cockayne, 2008). In some instances the state could be providing the goods and or services it should be providing but the



problem is scarcity which at times leads to state officials using this for rent seeking (Hellman et al, 2003). Social services and law enforcement are amongst services that states are unable to provide efficiently enabling crime groups to step in and conduct their illicit activities and provide social services (Hall, 2002).

#### **2.2.2.1.3. Symbiotic**

Symbiotic effects of TOCs come as a result of deficiency in entrepreneurial culture in which criminal organisations seek methods to gain access to wealth using illicit means (Shanty and Mishra, 2008). There is a mutual relationship between TOCs with state officials as criminal groups provide economic incentive in return for favours (Serrano, 2002). TOCs occur successfully through strategic relationship between criminal groups and state officials, and instances of challenging the state through violence by criminal groups are rare if not absent (Cockayne, 2008).

#### **2.2.2.2. The five most prevalent forms of TOCs**

According to the United Nations (2012) the most profitable TOCs sequentially are: drug trafficking, human trafficking, smuggling of migrants, trafficking in natural resources, and trading in fraudulent medicines. This section will look at five prominent types of TOCs in terms of their profitability and show how each can be predatory, parasitic, and symbiotic. It must be stressed that not all TOCs develop out of these three conditions simultaneously or their effects on the society.

#### **2.2.2.2.1. Drug trafficking**

Drug trafficking is the subject matter of this dissertation, and makes a profit of about 320 billion US Dollars annually (United Nations, 2012). This makes it the most profitable TOC internationally. In most countries trading or smuggling of certain substances considered as drugs takes place and may deteriorate to predatory violent confrontations between traffickers and the state officials (Wannenburg, 2005). In Latin America violence through terrorism has enjoyed a strategic relationship with drug trafficking (Bibes, 2001). The parasitic relationship between drug trafficking and the society has occurred in societies where unemployment has sparked a move to drug trafficking as a source of income (Hall and Biersteker, 2002). In Colombia, the parasitic relationship between drug trafficking and society was through the inability of the state to ensure security, this drove farmers to employ services of the FARC that encouraged drug trafficking (Stanislawski, 2004). The symbiotic relationship between drug trafficking has been the main feature in states that have not criminalised drug trafficking but have instead assisted criminal groups (Inkster and Comolli, 2012). In Venezuela, there are allegations of the state being in partnership with FARC in facilitating drug trafficking (Inkster and Comolli, 2012).

#### **2.2.2.2.2. Human trafficking**

Human trafficking involves the use of compulsion through deception, or threat on person leading to one's transportation, and the facilitator having control over the victim (Addo, 2006). Human trafficking is the second most profitable TOC with proceeds of about 32 billion US dollars globally per annum (United Nations, 2012). In most instances victims are forced to activities like sexual exploitation and forced labour (United Nations, 2012), this is the predatory side of human trafficking as it leads to major human rights violations. The inability of states to empower economically active populations from rural areas has subjected these groups to being victims of

human trafficking through promise of deceitful job offers, this has been the parasitic side of it in most African states and elsewhere (Mazzitelli, 2007).

#### **2.2.2.2.3. Smuggling of migrants**

Smuggling of migrants occurs when criminal groups benefit financially in the illegal entry of populations in a country that they are not nationals of (Noble, 2010). Migrants usually pay to criminal groups to be aided when migrating illegally to another country (Noble, 2010). Smuggling of migrants makes proceeds of about seven billion US dollars per year which makes it the third most profitable TOC globally (United Nations, 2012). Migrants move from their countries of birth for better economic prospects, and safety (Noble, 2010). This is the parasitic characteristic of smuggling of migrants as their countries of origin are economically challenged and are faced by severe human rights violations.

#### **2.2.2.2.4. Trafficking in natural resources**

Trafficking in natural resources occurs through illegal trafficking or trading in natural resources, and takes different forms, ranging from illegal trading in: timber, precious stones and wildlife (United Nations, 2012). In terms of the profitability of trafficking in natural resources, it makes proceeds of about 4, 2 billion US dollars per year, making it the fourth most profit generating TOC (United Nations, 2012). The causes and effects of trafficking in natural resources are parasitic, this is on the basis that they develop due to the inability of the state to manage and protect its natural resources efficiently (United Nations, 2013). Proceeds of trafficking in natural resources contribute to further incapacity of the state through corruption which is another parasitic side of it (United Nations, 2013).

#### **2.2.2.2.5. Trading in fraudulent medicines**

Trading in fraudulent medicines occurs where medicines that do not meet specified health specifications are distributed and sold as medicines that have met health standards (Finlay, 2011). It is the fifth profit generating TOC globally, making a profit of about 1, 6 billion US dollars annually (United Nations, 2012). Trading in fraudulent medicines results out of and causes parasitic conditions as it develops in countries with weak law enforcement (Finlay, 2011).

### **2.3. History of transnational organized crimes (TOCs) and their evolutions**

#### **2.3.1. The early years of transnational organized crimes (TOCs) from the 1400s to 1900s**

The most prevalent TOCs during the early formative years as presented in the literature were piracy and banditry. Piracy and banditry laid a foundation for other forms of TOCs (Tilly, 1985; Chambliss, 1988; Birkbeck, 1991; Anderson, 1995; Williams, 1997; Gallant, 1999; Roldan, 1999; Dupont, 1999; Spillane, 1999; Gootenberg, 1999; Skaperdas, 2001; Woodiwiss, 2003; Kapstein, 2006; Saenz-Cambra, 2008; McCarthy, 2011; Inkster and Comolli, 2012). The early years of TOCs are characterised by state formation process. The states were also seeking for protection from criminal groups and vice versa.

##### **2.3.1.1. A brief overview on piracy and banditry**

Piracy involved criminal groups actively extorting goods that were being transported through seas. This saw vessels and ports being constantly under threat (Saenz-Cambra, 2008). In some instances pirates were considered as criminals while in some cases they were considered as heroes. Banditry was unlike piracy, it involved warlords being employed for their war making capability, they were considered as heroes or as criminals by different actors in the same way as pirates (Birkbeck, 1991).

Seaborne trade has been blamed for the existence and development of TOCs. This form of trade has long been exploited by pirates since its inception in world trade (Williams, 1997). The conditions that were conducive for the occurrence of piracy are not that different from conditions which are currently enabling most TOCs (Anderson, 1995). Anderson espouses the view that Economic difficulties forced a move to piracy as a living, and the inability of states to deal with piracy due to jurisdiction issues that fuelled the problem. Moreover, incapacities of states which were signalled by weak armies enabled pirates to function without state interference (Tilly, 1985). The history of economic development in the global system has enabled the development of piracy and banditry and will continue to recur should these conditions exist (Gallant, 1999). Gallant (1999) maintains that the economic conditions that have enabled piracy are: the development of the semi-periphery and periphery, forced removals, as well as open trade as seen with seaborne trade.

Pirates and bandits engaged in criminal activities that can be characterised as TOC. Piracy emerged with other forms of TOCs or criminal activities (Saenz-Cambra, 2008). Slave trade that has now evolved to be called human trafficking is amongst TOCs that were enabled by piracy as routes that were used for transportation of goods also became routes for slave trade (Saenz-Cambra, 2008). By way of indication, slave trade was on the rise from the 1400s as it provided cheap labour (Kapstein, 2006).

### **2.3.1.2. State formation and TOCs**

Most literature on TOC has tended to look at the problem as recent. The reality is that TOC is an ancient problem which emerged during the same period as the formation of states (Woodiwiss, 2003). Although TOCs are as old as state formation but their prominence has been noticed and

expanded in the modern ages (Saenz-Cambra. 2008). During the early years of TOCs, the use of violence was central (Saenz-Cambra. 2008). The upper classes were mainly involved in smuggling human beings and illegal goods while lower classes were involved in criminality (Saenz-Cambra. 2008). In European countries like Italy, state formation was facilitated by a different breed of criminal groups who came to be known as Sicilian mafias which has become to be recognised as the most organized criminal group in history (Skaperdas, 2001).

Conditions that existed during state formation were necessary for the development of TOCs. Criminal groups conducted their business effectively in conditions of anarchy and or state of nature (Skaperdas, 2001). The making of states was coupled by wars aimed at defeating rivals within territories, it was during this period that piracy, banditry and other forms of TOCs emerged (Tilly, 1985). Moreover, places like mountains have been breeding grounds for rebel groups or bandits during the formation of states (McCarthy, 2011). It must not be ignored that the formation of states was coupled by capitalism infiltrating countries. In the absence of central authority and regulative measures bandits therefore contributed to the formation of borders and introduced capitalism where possible (Gallant, 1999). In Latin American countries like Mexico, Venezuela, Peru and Brazil violence by bandits and pirates was a noticed pattern in the formation of these states (Gallant, 1999). Formation of states through criminal groups was not a pattern of European, and South American countries only, some African countries experienced a similar trend. This was the case in countries such as Egypt and Ethiopia where bandits were part of state formation (Gallant, 1999).

Although piracy and banditry dominated the early formative years of TOCs, other TOCs emerged and were not as widespread as banditry and piracy. Amongst TOCs that were noticed during the

years of 1800s upwards was drug trafficking from Mexico to the US (McCarthy, 2011). However, within this period certain drugs in some regions existed and were legalised, cocaine for example was legalised and used for religious and medicinal purposes in South America, the US only prohibited the use of cocaine from 1885 to 1900 (Gootenberg, 1999).

The legalization of drugs goes as far as 7000 BCE to 3000 BCE, where these drugs were cultivated for religious reasons (Inkster and Comolli, 2012). In South America, in countries like Colombia, coca leaf from which cocaine is produced was consumed by indigenous population groups as a stimulant for performance (Roldan, 1999). A similar trend also existed with opium which would later form part of drugs trafficked during the 19<sup>th</sup> century, the consumption of the substance was considered a cultural practice (Dupont, 1999). As cocaine was used for medicinal purposes in the US during 1880s, its consumption effects were noticed in the 1890s (Spillane, 1999). The modernization process through advances in the field of chemistry facilitated extraction of cocaine from coca leaf and enlightened how different methods can be used to produce cocaine (Inkster and Comolli, 2012). While cocaine was legit, cases of drug trafficking in the form of opium were reported in Canada from the 1870s (McCarthy, 2011).

### **2.3.1.3. States endorsing TOCs**

The role of states in endorsing TOC is divided into two categories. Firstly states endorsed criminal groups as they assisted in capacitating them (states), mostly in Europe, with protection and generating income to be used in financing government activities. Secondly, TOCs were used in capacitating states to deal with their rivals at that time.

#### **2.3.1.3.1. Improving capacities of states through protection and finance**

The existence of TOCs after state formation in history has been due to states forming alliances with criminal groups. Criminal groups such as pirates and bandits played an important role in the formation of states as it is noted that their existence goes as far back as the 16<sup>th</sup> century (Gallant, 1999). Pirates together with bandits acted as defenders of states and at times engaged in illicit activities such as obtaining goods illegally (Gallant, 1999). Bandits and pirates during this period can be referred to as legal groups whose role was to protect the states through violence (Gallant, 1999). While protection can be said to have been offered by criminal groups to states, states also protected pirates and bandits for proceeds obtained from illicit activities (Chambliss, 1988). The stealing of Spanish gold and silver in 1573 that financed England's government at that time for a period of about seven years is an example of interchangeable protection between the state and criminal groups (Chambliss, 1988).

#### **2.3.1.3.2. Improving capacities of states to deal with their rivals**

Bandits and pirates were an important component in the militarization of states, these groups used violence to eliminate enemies of states within and outside territories, and violence was highly organized (Tilly, 1985). A number of European countries gained in terms of wealth through pirates. Spain through Columbus and Portugal through Vasco Da Gama were able to enrich their respective countries with silver and gold and facilitated the colonization process (Chambliss, 1988). European countries competed for control over territories and resources. In protecting and expanding these territories armies had to be reinforced as it can be noted with Spain and Portugal who had to prevent entry of other countries in the Americas (Chambliss, 1988). As McCarthy (2011) illustrates



this, the scramble for Africa from the mid-1880s saw European countries colonizing African countries as these countries possessed resources. This process was facilitated by pirates.

Pirates were recognised as heroes in their countries and they enjoyed legal amnesty and were seen as actors who had to be dealt with in other countries (Gallant, 1999). The accumulation of wealth as informed by capitalism was facilitated by pirates and bandits. France was the first country to protect pirates in return for a share of proceeds (Chambliss, 1988). England and Holland joined, and these proceeds were to assist these countries to destabilise Spain and Portugal that were accumulating wealth in the form of silver and gold (Chambliss, 1988).

#### **2.3.1.4. Independent criminal groups**

In some regions TOCs existed without involvement or support of states. During the years 1668 a group of pirates which was referred to as Buccaneers emerged and was based in the Caribbean and the Gulf of Mexico (Saenz-Combra, 2008). Buccaneers were not legalised by their countries, their activities were slave trade and smuggling (Saenz-Combra, 2008). The existence of these criminal groups was through indirect roles played by states, as Gallant (1999) points out that in states that were poorly formed, criminal groups were established with ease. Groups like pirates and bandits saw opportunities to be exploited as these countries struggled to enforce laws. Secret criminal societies are other criminal groups that existed and were not supported by states (Saenz-Combra, 2008). These groups engaged in activities that included regulating drug trafficking and illegal gambling operations (Saenz-Combra, 2008).

### **2.3.2. Expansion years of TOCs during 1910 to the late 1980s**

The early 20<sup>th</sup> century till the end of the cold war marks an expansion period of TOC, there is a noticed move away from banditry and piracy during this period. The driving force for evolution and expansion of TOCs during this period was fascination about political power which emerged in the form of revolutions, wars and other political transformations (Skaperdas, 2001). Criminal groups during this period showed their ability to abuse power vacuums (McCarthy, 2011). The use of authority vacuums was demonstrated in the Mexican revolution in 1910 which introduced the use of mountains as ungoverned territories for clandestine activities such as military training to prepare for confrontation with the state (McCarthy, 2011).

Revolution also emerged in Cuba where proceeds obtained through TOCs were funding rebel groups (Verrill, 1924). The 1917 Russian revolution was also a notable event in history as far as the history and evolution of TOC is concerned (McCarthy, 2011). The revolution in Russia created a power vacuum as the state lost central authority and TOC groups exploited this opportunity (McCarthy, 2011). Russia during this period was unable to meet the economic needs of the society. Russia's economic difficulties enabled criminal groups to develop as the Russian Mafia emerged and used TOCs to address economic difficulties of the masses (McCarthy, 2011).

Law enforcement has been recommended as the most effective way of dealing with TOC. However, law has instead exacerbated the problem, a case in point being decisions of the US government between 1920 and 1933 (McCarthy, 2011). The Volstead Act of 1919 which was implemented in 1920 prohibited the manufacture of alcohol beverages but not their consumption in the US. This created the scarcity of these substances (McCarthy, 2011). In the presence of scarcity for a

particular item or substance the demand increases for such an item (Goldsmith, 2009). The issue of scarcity triggering demand was illustrated by the US experience through the Volstead Act as this was an opportunity exploited by mafia groups from Chicago (McCarthy, 2011). The mafia groups that were formed in the US through immigration laws manufactured and smuggled illegal liquor (McCarthy, 2011). Moreover, neighbouring countries of the US were also instrumental in the increase of illicit alcohol smuggling. Canada for example was the major source of alcohol and opium crossing the borders of the US (McCarthy, 2011).

TOCs existed long before the Volstead Act in the US but increased when the act came to effect (Goldsmith, 2009). Criminal groups that dominated the illegal market of smuggling alcohol beverages were immigrants of Irish, Italian and Jewish descent (Inkster and Comolli, 2012). These criminal groups expanded their activities to other forms of TOCs such as drug trafficking especially heroine originating from France, Middle East and South Asia (Inkster and Comolli, 2012). Prohibition also affected China where trading in opium was prohibited in 1919, this was an opportunity for the Green Gang of Shanghai which smuggled the substance (Skaperdas, 2001). The group was able to extend its activities to legitimate business mainly shipping and banking during the 1930s (Skaperdas, 2001).

A second wave of revolutions which laid a foundation for the development of TOCs emerged in Latin America. Like other revolutions, the Revolution in Colombia and in other Latin American countries, violence was an important element in which the insurgent groups used terrorist attacks (Feldman and Peralá, 2004). Terrorist or insurgent groups have always inserted themselves as freedom fighters and later changing and or making alliances with criminal groups engaged in TOC

(Shurgat, 2005). The La Violencia of 1948 in Colombia which was a dispute over political power between the Labour Party and the Conservative Party depicted the use of violence in revolutions (Inkster and Comolli, 2012). During the La Violencia, the FARC which was an insurgent group for the Labour Party came into being and would later become a major actor on drug trafficking and other TOCs (Inkster and Comolli, 2012). Other revolutions played out with violence through terrorist and insurgent groups in countries like Venezuela, Argentina, Brazil, Chile, and Uruguay (Feldman and Perala, 2004). In Cuba the revolution was inspired by figures like Che Guevara where insurgent tactics were employed (Hudson, 1999). The use of guerrilla tactics encouraged the development of terror groups that later expanded their activities to TOC (Hudson, 1999).

The strategies that were implemented to tackle TOCs in a particular country were causing the problem to expand into other countries. Where a particular TOC is tackled another form of the activity will be introduced or the same activity will expand to another typology. From the 1960s there is an unprecedented upsurge in drug related TOCs, as criminal groups that were smuggling alcohol, cigarettes, and marijuana to North America shifted to smuggling cocaine (Roldan, 1999). As also demonstrated by Inkster and Comolli (2012), the growing demand for cocaine and heroin in the US and Western Europe was fulfilled through criminal groups expanding their activities. The Colombian and Mexican cartels during this period replaced Cuban cartels as suppliers of drugs to the US (Inkster and Comolli, 2012). Jamaican gangs who specialised in smuggling marijuana to the US also followed the pattern of changing their specialization as they shifted to smuggling cocaine due to its demand in the US (McCarthy, 2011).

The demand for drugs in the US was such that consumption of drugs was alternating in that; while one drug was scarce due to law enforcement another drug would be consumed on a high scale such as cocaine replacing heroine during the 1980s (Inkster and Comolli, 2012). The defeat of TOCs has also been noted in terms of prohibition worsening the problem in another country, a case in point being Turkey in 1972 where opium was successfully prohibited from being smuggled into the US (Inkster and Comolli, 2012). The prohibition of opium into the US was an opportunity for Mexican cartels to smuggle heroin as there was scarcity created by successful crackdown of the cartels from Turkey (Inkster and Comolli, 2012). In Asia, in response to US policies heroine moved to the Golden Triangle in Southeast Asia, the market in the Golden Crescent saw South and Central Asia later reemerging as the key suppliers of the drug in 1978 (Inkster and Comolli, 2012).

Drug trafficking was not expanding by itself only during the 1960s to the 1980s but it was also expanding money laundering activities which was a TOC which had not received much attention (Schaap, 1998). Money laundering which was developing with drug cartels was not only expanding in terms of occurrences. Money laundering was also expanding in terms of complexities as it was adapting to technology therefore introducing new forms of laundering and other forms of TOCs (Schaap, 1998). It is the formation of the Australian Nugan Hand Bank in 1973 that marked a turning point in money laundering as it served as a hub for money laundering (Chambliss, 1988). Officials from different countries used this bank for funding political campaigns, arms smuggling that were destined for Middle East, South Africa and Libya (Chambliss, 1988). Operations of cartels were also funded through the Nugan Hand Bank, a case in point being Southeast Asian cartels (Chambliss, 1988).

In investigations that were conducted after the downfall of the Nugan Hand Bank, a number of issues relating to TOCs emerged. These included: heavy involvement of the US government officials in the illicit operations of the bank, the extent of money laundering also included African, European, and Asian state officials (Kerry, 1992). There was a clear collaborative relationship between the US high profile officials as they assisted the bank in avoiding investigation and some who served in the bank were former employees of the US government (Breimer et al, 2006). It is for this reason that Mittelman and Johnston (1999) argue that TOCs during this period were on the rise because of global economic difficulties that were experienced. New forms of TOCs were also developed, amongst them were: computer crimes, new forms of money laundering as well as counterfeiting of banknotes (Mittelman and Johnston, 1999).

The history and evolution of TOCs cannot be analysed without looking at the role played by the cocaine industry. Smuggling cocaine was dominating TOCs in the Silver Triangle made up of Colombia, Peru and Bolivia becoming key sources of the drug into the US (Andreas and Youngers, 1989). Cocaine smuggling during the 1970s became commercialized to such an extent that cartels resembled Multinational Corporations in Latin America (Andreas and Youngers, 1989). Except the inner functionalities of cartels involved in drug trafficking from Latin America there was a prominent division of labour as Peru and Bolivia dealt with cultivation of coca leaf (Andreas and Youngers, 1989). The conversion of the leaf into coca paste occurred in Colombia where coca paste was converted into cocaine which was then trafficked to where there was a demand for the drug (Andreas and Youngers, 1989).

The commercialization of cocaine and TOCs is signified by Pablo Escobar. Pablo Escobar from Colombia whose leadership style was exceptional formed the Medellin cartel in the 1970s (McCarthy, 2011). The formation of the Medellin was in response to the growing demand for cocaine in the US which made the cartel successful through proceeds from cocaine smuggling (McCarthy, 2011). The success of the Medellin in drug trafficking can be attributed to its strategy, it was able to insert itself to the socio-economic conditions in Colombia in which the cartel became an employer (Roldan, 1999). This made resistance against drug proliferation and smuggling from the society less possible, as it was the young unemployed males who joined drug trafficking operations (Roldan, 1999).

The proceeds from drug trafficking made the cartel immune from law enforcement as it challenged Colombian state capacity where a law enforcement officer could be found dead without explanation (Roldan, 1999). Activities of the Medellin Cartel were not only concentrated in Colombia but it was taking advantage of different legal systems of countries (Inkster and Comolli, 2012). The cartel was setting a new trend as it was forming links with criminal groups from other countries (Inkster and Comolli, 2012). As the demand was increasing so was the number of recruits to carry out illicit activities (Inkster and Comolli, 2012). The structures of the cartel were also becoming decentralised and therefore flexible, and the cartel was also branching into legitimate business to channel illegitimate proceeds into legitimate business (Inkster and Comolli, 2012). In a sense Medellin showed how illicit and licit economy can be integrated and how business models can be adopted for the commission of illicit activities.

### **2.3.3. The notable years of transnational organized crimes in the 1990s to the early 2000s**

It was the end of the Cold War during the early 1990s that marked a new era in the evolution of TOCs where there was a prominent union between TOCs most notably drug trafficking and terrorism.

In the same way as the Russian revolution, the downfall of Soviet Union in 1991 offered favourable conditions for criminal groups to exist as central authority ceased, and the division of the country into further smaller states took place (Briscoe, 2011). This created a power vacuum as the state was unable to fulfil its social responsibility such as protection of property and provision of pension (McCarthy, 2011). The inability of the state to fulfil its responsibility enabled the criminal groups to penetrate the society through TOCs as alternatives (McCarthy, 2011). As Briscoe (2011) states, political fragmentation has always been a perfect precondition for the occurrence of TOCs. The end of Soviet Union left many government employees unpaid making it easy for criminal groups to recruit for illicit activities (McCarthy, 2011). The capacity of the state was weakened especially law enforcement which was an advantage for criminal groups as former employees of the state were now serving criminal groups (McCarthy, 2011).

The end of the Cold war weakened capacities of most states, as there was no longer an arms race between the US and the Soviet Union over political ideologies which prompted a number of countries to spend less on their defence capacities (Stanislawski, 2004). Poverty was on the rise and states had less resources compared to TOC groups (Stanislawski, 2004). Albini (1999) argues that the US and Soviet Union formed alliances with criminal groups to improve their capacities during the Cold War. Criminal groups such as terrorists were used by both countries and received funding to pursue operations on behalf of either of these countries (Albini, 1999). Criminal groups served as



spies not forgetting that the financial support they were receiving also provided military readiness in case of an attack (Albini, 1999). As support from Soviet Union and or the US was dwindling the privileges they had, such as network spies, and arms were used to further illicit activities which were to replace income that ceased to flow from the Soviet Union or the US (Albini, 1999). In addition, the Soviet Union funded a number of rebel groups as it collapsed in 1991, drug trafficking was a viable means of generating income for these criminal groups (Spitzer, 2011). By way of indication, the Soviet Union was a client to Colombian FARC which served as a destabilizer for the democratization of Latin American countries (Feldman and Perala, 2004).

The problem of TOC being dealt with and reappearing in another region with other criminal groups revived itself after the end of the Cold War. In Colombia for example the end of the Medellin cartel through the execution of its leader was not the end of drug trafficking in the region (Inkster and Comolli, 2012). A number of drug cartels developed to fill the void that was left by the demise of the Medellin cartel (Inkster and Comolli, 2012). The death of the leader of Medellin cartel facilitated the rise of Cali cartel and other cartels within Colombia which became fragmented to avoid confrontation with the law (Skaperdas, 2001). The death of the Medellin cartel leader also facilitated the development of Mexican cartels forging links with other cartels which were also growing due to fragmentation (Skaperdas, 2001). While drug related activities were expanding in Colombia, in other countries like Peru and Bolivia drug related activities were declining as they were being targeted by law enforcement agents (Feldman and Perala, 2004). In Colombia, the state was making attempts to destroy drug trafficking through the destruction of fields where coca leaf was cultivated but cultivation would migrate to other areas in rural areas (Feldman and Perala, 2004).

The end of state funded terrorist groups saw these criminal groups moving to TOC as a means of livelihood after the end of the Cold War. In regions like Latin America where Soviet Union had provided funding to rebel groups, TOCs were increasing at unprecedented levels (Latin American Weekly Report, 2001). In countries like Colombia, Peru and Bolivia, drug trafficking activities were prominent, and criminal groups like FARC were behind this (Spitzer, 2011). Activities of the FARC during the end of the Cold War were funded through activities of TOCs (Stanislawski, 2004). Meanwhile, the Taliban and Al Qaeda from Afghanistan were also engaging in the trafficking of heroine for weapons (Stanislawski, 2004).

The 1990s upwards also saw criminal groups changing in their appeal in their structure, collaboration strategies, activities and size. TOC groups during the 1990s were becoming loosely structured and not hierarchical (Shelley and Picarelli, No Date:). The Latin American drug cartels and the Russian Mafia were facilitating the expansion of TOCs and reducing the possibility of being subjected to law enforcement (Shelley and Picarelli, No Date). There was also a stronger formation of alliances amongst criminal groups from different regions spreading the problem of TOCs to other continents (Stanislawski, 2004). The end of the Cold War was a decade in which the relationship between terrorism and TOC was at its peak (Makarenko, 2004). It encouraged the formation of alliances between groups involved in TOCs, notable alliances during this period were the Colombian National Liberation Army (ELN) with the Medellin drug cartel (Makarenko, 2004). FARC was forming alliances with Mexican criminal groups, Russian Mafias were also forming alliances with the Colombian drug cartels for arms trade (Makarenko, 2004). Some criminal groups were intensifying their activities, such as the Al Qaeda which used countries for financial gain to be used in funding acts of terrorism (Shelley and Picarelli, No Date).

As the Soviet Union crumbled with communism in 1991, the US no longer had a rival over political ideologies. This meant that democratisation of the world weakened state institutions in regions where conditions were not conducive for democracy. As Williams (1997) argues that states in transition to democracy are prone to criminal groups due to lack of central authority which was exacerbated by democratisation during the end of the Cold War. States in transition suffer from the gaps in the law and corruption which are conducive for illicit activities (Williams, 1997).

Drastic transition of a one party regime to democracy promotes state decentralization which exposes state institutions to capture by criminal groups as these institutions are left unattended (Brisco, 2011). States in transition and their economies also become vulnerable to TOC because state officials get used to operating in conditions of weakening state capacities (Dupont, 1999). Colombia is a country where the democratisation process has facilitated expansion of TOCs, as corruption and weak state institutions had been part of Colombian history (Briscoe, 2011). Moreover democratisation in Colombia also did not take into consideration the societal configuration of the country. In Colombia, those in rural areas have always been ignored and had no voice in political affairs of the country which has seen these population groups engaging in TOCs (Maddaloni, 2009).

The democratisation of the world was coupled by globalisation and the widespread of capitalism during the end of the cold war. Open markets encouraged advances in the means of production, introducing a wide range of transportation systems which has made it difficult for states to be in full control of activities across borders (Williams, 1997). Goldsmith (2009) argues that at times an increase in economic development can occur concurrently with the increase in TOCs. The same

inability of detecting transactions and travels across borders can also be translated to inability to detect TOCs (Williams, 1997: 13). This is on the basis that criminal groups use the same means such as air travel, seaborne trade and banking systems to expand TOCs (Williams, 1997).

In addition, travel systems, advances in technology have also informed the way communication occurs which has also been exploited by criminal groups for illicit activities (Dordevic, 2009). In regions where the possibility of TOC has been null, advances in information technology have made these regions conducive environments for TOC (Briscoe, 2011). These facilities have been exploited to expand complexities of TOCs, activities such as money laundering, forgery of identity documents have been attracted by modern technology (Briscoe, 2011). Shelley and Picarelli (No Date) argue that advances in technology enabled criminal groups making recruitment of members for criminal groups convenient through the internet. To illustrate this, China's modernization saw the problem of drug trafficking in the form of cocaine reemerging in cities like Beijing due to technological advances (Dupont, 1999). In addition, the availability of gambling facilities in some countries eased the convention of illicit proceeds into clean money (McCarthy, 2011).

Another factor that contributed to the increase of TOCs which emerged after the end of the cold war in 1991 was the rise of conflicts. As Stanislawski (2004) argues, states with internal and external troubles have always been prone to TOCs. Criminal groups have been able to insert themselves in regions experiencing instability due to conflicts as they function best in such conditions. In the Democratic Republic of Congo (DRC), Afghanistan, Myanmar, Colombia, and Peru insurgent groups were linked to a number of TOCs ranging from smuggling natural resources, drug trafficking, small arms trafficking and human trafficking (Briscoe, 2011).

Since the end of the Cold War insurgent groups used conflicts in resource rich countries to open routes for the illegal smuggling of such resources (Briscoe, 2011). Former Soviet Union should not be ignored where ethnic conflicts have increased incidents of TOCs (Wagley, 2006). The DRC conflict of 1998 is one of the resource wars to be noted in relation to TOCs (McCarthy, 2011). DRC is a major source of coltan a valuable resource which saw criminal groups being used by countries like Rwanda and Uganda to control the flow of the mineral, independent criminal groups also appeared for economic interests over coltan and other minerals (McCarthy, 2011). A similar scenario has been at play in Sierra Leone where smuggling of diamonds has been linked to arms smuggling in which rebel groups armed themselves with weapons bought through proceeds of diamond smuggling (McCarthy, 2011). Arms trafficking by criminal groups from Ukraine and Russia during the 1990s exploited weak borders in countries like Kenya, Tanzania and Uganda serving as transit countries (Stanislowski, 2004).

The end of the Cold War also ensured the emergence of failed states which became breeding grounds of TOCs. Somalia for example since the 1990s has been a breeding ground for piracy as a result of ineffective central authority (McCarthy 2011: 2006). The success of many drug cartels in Latin America after the end of the cold war is also linked to the use of ungoverned spaces (Andreas and Youngers, 1989). Afghanistan is another country that exhibited characteristics of state failure which became more prominent during the end of the Cold War as it harboured the Al Qaeda which has been involved in the commission of illicit activities (Makarenko, 2004).

## **2.4. Implications For World Politics**

Drawing from the typologies and history of TOCs as discussed above there has been a long relationship between TOC and state capacity. The implications for world politics in relation to TOC can be summarised as follows:

- The structure of criminal groups involved in TOC determines how they will challenge the state.
- The inability of the state to provide certain goods and services creates scarcity which is a favourable condition for TOC.
- Weak law enforcement allows criminal groups to function without interference of the state.
- As the state fails to create economic opportunities through enterprises, TOC becomes a viable solution to gain access to wealth.
- TOCs are more likely to develop in states going through; state failure, political transitions, conflicts, as well as inability to ensure authority in all regions.
- Solutions aimed at curbing TOCs have been lacking holistic approach to deal with the problem, as there have been instances where solutions exacerbate the problem.
- Lack of global cooperation has enabled prolonged existence of TOC as decrease of TOC in one region has exacerbated the problem in another region.

## **2.5. Conclusion**

In conclusion, this chapter has looked at four issues namely: Crime groups and Typologies of TOCs, their history and evolutions plus implications for world politics. This chapter firstly looked at crime groups as well as typologies of TOCs. It initially looked at structural arrangements of criminal groups which are traditional and modern networks and how their effects differ. The chapter then looked at typologies of TOCs based on the conditions that allow for their occurrences

or their effects, namely: predatory, parasitic, and symbiotic. The five most prevalent TOCs globally, profiled were: drug trafficking, human trafficking, smuggling of migrants, and trafficking in natural resources. It must be stressed though that not all TOCs can be predatory, parasitic, and symbiotic simultaneously.

The history of TOCs and their evolution which is marked by three periods were also looked at. The early years of TOCs in the 1400s to the 1900s were discussed. The chapter has established that piracy and banditry were dominant laying foundation for other TOCs. State formation and mutual relationships between criminal groups and states were also on the rise. It can now be concluded that the period from 1910 to the 1980s was a period of shifts away from piracy and banditry coupled by strategic alliance between TOCs and political power. The notable years of TOCs is the period from the 1990s to the early 2000s, this chapter uncovered that this is where there is a merger amongst TOCs. The chapter then looked at implications of TOCs for world politics. It has been revealed that TOCs have always posed a serious challenge to states, and are likely to remain so if proper steps are not taken to deal with the problem.

The next chapter which is chapter three looks at drug trafficking and state capacity in Ghana and South Africa. The four state capacity elements being looked at are: regulatory, administrative, technical as well as extractive capacity. The analysis is grounded on Ghana Police Service (GPS) and South African Police Service (SAPS) respectively.

## **Chapter Three: Drug Trafficking and State Capacity in Ghana and South Africa**

### **3.1 Introduction**

Drug trafficking is amongst serious threats to global peace in international relations. As the previous chapter has established, TOCs like drug trafficking have long been present. African countries are not an exception to the problem of drug trafficking. Two regions are central in drug trafficking activities in Africa that is West and Southern Africa. Countries from these regions have become significant players in drug trafficking. From 2001 to 2011 there are important factors that make each of these regions in Africa important players in drug trafficking. Some of these factors are enumerated and discussed below.

For West Africa, there is tightening law enforcement in Nigeria towards dealing with drug trafficking which forces criminal groups to move drug trafficking activities to Ghana. As Ghana has been used for drug trafficking activities from 2001, the country has mainly appeared as a transshipment state for cocaine and heroin destined for Europe and North America. As the years progressed, towards 2011 cocaine and heroin saw a growing market of consumers. It must also be noted that from 2001 to 2011 there is an already established market of traffickers and consumers for marijuana in Ghana. For South Africa the period 2001 to 2011 in relation to drug trafficking is significant as it is a period of reformation of most law enforcement agencies. Studies show that in South Africa there is also an already established marijuana market.



This chapter looks at state capacity in relation to drug trafficking in Ghana and South Africa. The following variables of state capacity are utilized namely: regulatory, administrative, technical, and extractive capacities.

Specifically for Ghana and South Africa the chapter firstly makes a situational analysis by establishing actors, their interests, and effects of drug trafficking activities on each of the countries. The chapter then looks at different capacity elements that make up state capacity in relation to drug trafficking activities in both countries. A general observation shows that there are different actors involved in drug trafficking in these two countries, their motives and interests are what differentiate them. Their structures and forms of drugs they deal with also differentiate the routes where these drugs are consumed. In terms of interests and incentives of drug trafficking, for some actors it is economic prosperity while for other players it is mainly political objectives. In terms of implications of drug trafficking in Ghana and South Africa, both countries have become multiple players in this activity. The countries in question have become home states for criminal groups dealing in drug trafficking, transshipment states for drugs destined for other regions, and hosts for being the market for drug use.

In looking at state capacity and drug trafficking in Ghana and South Africa, this is how the variables of state capacity are looked at:

### **Regulatory capacity**

For the rule of law, this is mainly based on the analysis of international and regional organizations to which Ghana and South Africa are member states. Conventions and decisions of these

organisations are being looked at and what actions have been taken by both countries to conform to these conventions.

### **Administrative capacity**

The police officer ratio per citizen is being looked at in Ghana and South Africa. This is also compared with the recommended international police officer ratio per citizen. Infrastructure and working conditions are also profiled for both countries. Accountability controls are also analysed in relation to curbing or preventing drug trafficking.

### **Technical capacity**

Issues pertaining to skills shortages of the officials of both Ghana Police Service (GPS) and South African Police Service (SAPS) are looked at. Information on technical skills has been established to determine whether both countries have similar challenges and achievements and how has this impacted in the increase or decrease of drug trafficking in both countries. Strategic units for both GPS and SAPS are also profiled and effects of their mechanisms in relation to drug trafficking are considered.

### **Extractive capacity**

In relation to funding and budget for GPS and SAPS differences have been outlined. It has also been established whether these countries are self-sufficient or if they rely heavily on donations to fund policing towards drug trafficking.

## **3.2. State capacity on drug trafficking in Ghana**

### **3.2.1. Actors**

Drug trafficking in Ghana is made up of a variety of actors playing different roles. There are two forms of networks or groups that are involved in drug trafficking in Ghana namely: economic criminal groups and religious groups. Groups involved in drug trafficking are also notable for their lack of identity due to the absence of hierarchy which makes detection by law enforcement difficult (Aning, 2007). In case of hierarchy, information regarding leadership is highly secretive (Aning, 2007). Drug traffickers usually use agents to distribute drugs in different locations; agents can be state employees, politicians, students, unemployed youth and business owners (Addo, 2006). Three main drugs are trafficked in Ghana, namely: cocaine, heroin, and marijuana (Aning, 2007). Ghana's drug trafficking operations are secretive to the extent that even carriers tasked with trafficking drugs may not have knowledge of the main suppliers, as well as where drugs are destined to be delivered (Aning, 2007). In Ghana, the cultivation of marijuana crop is carried out by farmers as it is more valuable than other cash crops like cocoa (Wannenburg, 2005).

Drug traffickers in Ghana are not producers of drugs like cocaine and heroin but act as distributors for suppliers in other countries (Wannenburg, 2005). It appears that there are fewer users of cocaine and heroin within Ghana, but consumption is growing. To a large degree, drug traffickers in Ghana are of Nigerian and Ghanaian origin (Akyeampong, 2005). These networks firstly buy cocaine or heroin at wholesale prices from South American or Asian criminal networks, drugs are then trafficked by carriers where these drugs are in demand (Andreas, 2011). The consumption of cocaine in Ghana is mostly by middle class educated, and is slowly increasing in other sectional groups (Bernstein, 1999). Marijuana is the only drug that is produced and consumed in Ghana. The youth from urban areas is involved in its sale and consumption (Wannenburg, 2005).

### **3.2.2. Interests and Incentives of actors**

Depending on the nature of groups involved in drug trafficking in Ghana their interests differ, for some the interests and incentives are economical while for others they are political. Specifically, the interests and incentives of economic criminal groups in drug trafficking are mainly economic prosperity (Bolaji, 2010). The interests of religious groups that engage in drug trafficking in Ghana are mainly political as they are concerned about destabilizing West Africa through violence which is funded through drug trafficking proceeds (Bolaji, 2010). It is easy for economic criminal groups to recruit in Ghana due to socio-economic conditions. As one of the countries that are subjected to poverty and high numbers of unemployed youth drug trafficking has become a livelihood for most young unemployed in Ghana (Addo, 2006). Moreover, it is not only a livelihood for the unemployed, even established business owners and politicians are stepping in due to the high profitability of drug trafficking (Addo, 2006). Drug trafficking in Ghana is not only pursued to alleviate poverty and unemployment, or as a business venture but is also pursued to fund acts of terrorism in West Africa by religious groups such as those connected with Al Qaeda (Wannenburg, 2005).

Drug trafficking is also appealing to communities in Ghana as criminal groups are providing welfare services where the state is unable to. This deters community members from discouraging the activity (United Nations, 2005). In terms of prices of drugs in Ghana, cocaine is the most expensive at 38, 000 US dollars, followed by heroine at 21, 000 US dollars, and cannabis 32 US dollars per one kilogram for each (INCSR, 2012). This shows that cocaine as the most expensive drug with high profit has created a scarcity which is slowly being consumed in Ghana. On the other hand, the cheapest drug (marijuana) is the most consumed due to its availability and affordability.

### **3.2.3. Resources of actors and the impact of their operations**

With money gained from drug trafficking activities, criminal groups are able to speed up drug trafficking operations as the proceeds are used to corrupt state officials (Shehu, 2009). Drug traffickers in Ghana have therefore operated without fear of being subjected to punishment due to their ability to have law enforcement on their side using laundered money (Mazzitelli, 2007). The diversification of illicit activities of drug traffickers in Ghana is also due to drug revenues as the actors function without fear of being subjected to law enforcement (Mazzitelli, 2007). As corruption incidents have been a norm in Ghana there has been increasing distrust of the state by citizens (Wannenburg, 2005).

The implications of drug traffickers are dire in Ghana: drug trafficking leads to addiction that interferes with education, and social cohesion (Shehu, 2009). Issues like violence have been linked to drug addiction. In most cases violence is waged against the state by drug traffickers, and this is carried out with the aid of well-trained former combatants (Wannenburg, 2005). Ghana's firearm manufacturing industry has been gaining financially from drug traffickers who purchase arms to facilitate drug trafficking operations (Wannenburg, 2005)

Ghana has attained the status of being a home state to its drug traffickers and those from neighbouring countries like Nigeria. As mentioned above, for Nigerian drug traffickers Ghana has become a viable alternative for drug trafficking activities (Bernstein, 1999). The markets for cocaine consumers are also growing, something which will make the country host state should this consumption grow. Secondly, Ghana also serves as a transshipment state for cocaine and heroin destined for Europe and North America. With the success of the loosely structured groups, entities

pursuing drug trafficking are growing in numbers and their structures are being emulated in other countries (De Andres, 2008).

### **3.2.4. Regulatory capacity on drug trafficking**

#### **3.2.4.1. Rule of law**

Ghana is one of the parties of the 1988 United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (INCSR, 2012). There were three resolutions that were taken by the convention, namely: promotion of cooperation through sharing of information to curb drug trafficking, encouragement for states to rectify and abide by the convention (United Nations, 1988). The convention also adopted a resolution that the convention should be recognized as the only international instrument tackling drug trafficking (United Nations, 1988). Except the resolutions, the convention also urges member states to have pieces of legislations and mechanisms to curb drug trafficking (United Nations, 1988). Ghana's legal commitment to fight drug trafficking has also been complemented by the African Union (AU) as it is a member state. The AU and its member states have formulated an action plan to curb drug trafficking. The action plan calls for the following: policy formation, cooperation, capacity building in terms of law enforcement, and development towards dealing with drug trafficking (African Union, 2007)

The African Union Commission (AUC), a division of the AU for implementing the AU 2007-2012 plan against drug trafficking has received support from the United Nations to implement the action plan (United Nations, 2013). Besides being member state of the United Nations and the AU, Ghana is also a member state of the Economic Community of West African States (ECOWAS) which has also shown its interest in dealing with drug trafficking. The ECOWAS has declared that it will

attend to all the issues as laid out by the action plan of the AU as far as curbing drug trafficking in West Africa is concerned (United Nations, 2013b). Ghana has conformed to almost all permutations as laid out by the United Nations, the AU and ECOWAS in dealing with drug trafficking. Evidence of the rule of law against drug trafficking is the 1990's Narcotic Drug Enforcement and Sanctions which criminalises drug trafficking activities in Ghana.

The Narcotic Drug Enforcement and Sanctions Law of 1990 has shown that Ghana has the regulatory capacity. This is on the basis that the Act conformed to requirements as set out by the United Nations, the AU and ECOWAS. The affiliation of Ghana with the United Nations, the AU, and ECOWAS has promoted cooperation between this country and other international actors in dealing with drug trafficking.

According to the World Bank, the percentile rank of Ghana in terms of the rule of law has remained constant since the years 2001 to 2011 as it has been in the range of 53 % to 55 % (World Bank, 2012). These statistics show that the rule of law in Ghana has remained fairly functional as they have not regressed below 50 % which would have indicated the declining rule of law. In terms of drug trafficking, in 2001 cocaine trafficking in Ghana increased by more than 10 % (United Nations, 2001). However, drug related cases decreased by 11 % in the years 2010 to 2011 (Daily Guide, 2012). During the same period of 2010 to 2011 the rule of law percentile was slightly improved from 53 % to 55 % (World Bank, 2012).

It is unclear as to whether there is a link between the rule of law and crime levels, and whether the high rule of law reduces the level of crime. To establish the relationship between crime and the rule

of law, in 2006 Greece recorded 74 drug-related crime incidents per population of 100 000 (Harrendorf et al, 2010). During the same period, according to the World Bank (2012) the rule of law was at 72 % showing that the country was performing well in ensuring that the rule of law was upheld. On the other hand, for Mexico in 2006 drug-related incidents per population of 100 000 was at 52 (Harrendorf et al, 2010). However, rule of law percentile was lower than that of Greece as it was 41 % (World Bank, 2012). It is common knowledge that Mexico is one of the countries that are threatened by high crime rates; there is no way that the above mentioned crime statistics can be said to be a true reflection of the country. This is clearly evidenced by the 2006 statistics on corruption by Transparency International, according to the statistics: Mexico scored 3.3 scoring below 5 meaning that a number of citizens considered the country as corrupt (Transparency International, 2006).

Drawing from the trends of Greece and Mexico in relation to the rule of law and crime rate, various issues must be considered. Firstly, the lower level of the rule of law which is below 50 % in terms of World Bank percentile coupled with lower crime rates means that the country is unable to ensure the upholding of the proper rule of law. On the other hand, a country that has lower than 50 % rule of law while crime incidents are high means that although the rule of law is dysfunctional the country is still able to detect crime incidents. Thirdly, where a country has a higher rule of law according to the percentile of World Bank that is above 50 % with lower crime incidents such a country has well-functioning rule of law. Lastly, where crime incidents are higher and the rule of law World Bank percentile is more than 50 % it means that such a country has a well-functioning rule of law to such an extent that it is able to detect the majority of crime incidents, example being Greece in 2006. In relation to Ghana, the country falls within the category of countries that have well established rule of law. This is based on the fact that the increase in the rule of law in 2010 to 2011 coincided with a decrease in drug related crimes. This also means that Ghana is able to detect



drug related crimes and deal with them through the rule of law which also serves as a deterrent for similar illicit activities.

Law enforcement in dealing with drug trafficking in Ghana is the duty of the GPS. To prevent any crime including drug trafficking, the GPS ensures this through its presence in areas of high risk or hotspots which is also facilitated through patrolling (GPS, 2013). Moreover, regulation and monitoring of borders is also done by the police service in Ghana which also prevents drug trafficking and detects it in case it is committed (Interpol, 2013). Forming partnerships with the community through public education is also another mechanism used by police in Ghana to prevent crime (GPS, 2013c). In instances where drug trafficking offence has been committed, investigation is carried out and the offender is prosecuted (GPS, 2013c). If cases are complicated the Forensic Science Laboratory (FSL) which is within GPS investigates substances using scientific methods (GPS, 2013b).

In ensuring the rule of law, especially against drug trafficking, GPS has established partnerships with the US to fight drug trafficking (INCSR, 2012). Close ties between the US and Ghana have led to the formation of Economic and Organized Crime Office (EOCO) which is tasked with investigating activities of drug trafficking (INCSR, 2012). Ghana's close ties with the US have also led to the formation of the Special Investigative Unit (SIU). Moreover, there is also an extradition agreement between the US and Ghana (INCSR, 2012). GPS also has close links with the police services within West Africa and outside to ensure an effective rule of law in the fight against drug trafficking and other TOCs in general (GPS, 2013). It does appear that Ghana has shown willingness in terms of rule of law to deal with drug trafficking by conforming to standards as set by international and regional bodies.

### **3.2.5. Administrative capacity on drug trafficking**

#### **3.2.5.1. Personnel**

The GPS which is a responsible agency for dealing with crimes like drug trafficking has been able to attract competent talent. For aspiring police officers, there are six training schools in Ghana that train new police officers (GPS, 2013d). Prior to being accepted into the training programmes, trainees are screened to check whether they are competent physically, psychologically and morally (Aning, 2006). For those who have qualified as police officers there are programmes in place to maintain continued physical fitness (Aning, 2006). However, a number of issues have been raised pertaining to the training of entrants amongst them being inability to tackle complicated crimes like drug trafficking (Commonwealth Human Rights Initiative, 2007).

To further the skills of already existing staff, the police service in Ghana has an in-house college that offers training to those who have qualified to be appointed as Assistant Superintendent of Police after training (GPS, 2013d). University graduates are even included in the training, after which trainees are then promoted to senior strategic positions (GPS, 2013d).

The benefits of these educational programmes are twofold. Firstly, educational programmes empower personnel and serve as motivation to consider working as a police officer ideal. Secondly, programmes ensure that well skilled personnel is retained and utilized to tackle crimes like drug trafficking. There have also been drawbacks in training existing personnel. Amongst such drawbacks is that the training is more theoretical than practical and that training does not stress the fact that the police are the providers of protection to the society (Commonwealth Human Rights Initiative, 2007).

As far as retaining quality personnel is concerned, since 2001 the GPS has had a shortage of personnel as there has been one police officer for every 1421 citizens. This was below the United Nations minimum ratio which was one police officer for every 500 citizens in 2001 (Aning, 2006). In 2011 Ghana's police officer citizen ratio was one police officer for every 1037 citizens (Mensah, 2011). This shows that Ghana has shown progress as the police officer citizen ratio has improved from 2001 to 2011. However in 2010 the United Nations minimum police officer citizen ratio has been changed to one police officer for every 450 citizens (Mensah, 2011), this means Ghana still has a lot to do in this area to ensure reduced incidents of drug trafficking and other related crimes.

#### **3.2.5.2. Infrastructure and working conditions**

Regarding the infrastructure as an important element of administrative capacity, one of the challenges facing Ghana has been the shortage of resources. Facilities that have been scarce include transportation for patrolling in areas where it is likely that crimes like drug trafficking are an occurrence (Rocklyn, 2011). In addition, bullet proofing equipment, as well as finger prints equipment in laboratories have been scarce (Rocklyn, 2011). In some instances vehicles had been present but the problem has been that they cannot be used due to their poor mechanical conditions (Bury, 2011). Additionally, information technology devices have also been scarce for police officers in Ghana which has been unfavourable in maintaining communication in efforts of curbing drug trafficking (Bury, 2011). Apparatus like mobile radios and telephone lines have only been present in main police stations while other stations have not been able to access these facilities (GPS, 2010).

Scarce facilities like scanning equipment that had been present to detect and prevent drug trafficking activities in Ghana have been misused. Misuse of facilities has been evidenced by instances where police officers intentionally damage equipment or inform drug traffickers about how to bypass the facilities (Booth, 2010). Moreover, facilities are not only scarce for trained police officers, but police trainees have also been affected by the problem as there is no equipment devoted for Criminal Investigation Division training (Bury, 2011).

From 2008 there have been developments aimed at improving infrastructure for the GPS in Ghana, as about 1, 200 Gota Handsets were been given to GPS (GPS, 2010). In 2011, as a way of improving the infrastructure of the police, the state had its forensic science laboratory updated with the latest equipment to facilitate criminal investigation (Mensah, 2011). The equipment that has been installed is aimed at advancing evidence analysis through forensic means (Mensah, 2011). Priority has also been towards providing GPS with vehicles in 2010 (GPS, 2010). In 2011 the service received enough vehicles to facilitate curbing and preventing illicit activities including drug trafficking (GPS, 2013c).

There has been better allocation of resources regarding administrative capacity in dealing with drug trafficking in Ghana. The fact that the Ghanaian government has recognised that shortage of facilities is contributing to the GPS's inability to deal with drug trafficking means that the state is well informed about its challenges. The ability of the state to have information about its challenges has therefore led to adequate responses from Ghanaian administration. From 2008, there are responses that address resource challenges for the police in Ghana. This shows that attempts to strengthen the administrative capacity to deal with drug trafficking are being implemented swiftly.

### **3.2.5.3. Accountability**

Accountability within the police service in Ghana is maintained through internal and external mechanisms. Internal mechanisms are as follows: there are written sets of rules detailing acceptable and unacceptable conduct, failure to adhere to these rules leads to penal sanctions (Commonwealth Human Rights Initiative, 2007). One important contradiction though is that community members cannot make police officers account but it is only senior police officers who can enforce these rules while no one can enforce these upon senior officers (Commonwealth Human Rights Initiative, 2007). The public can only make complains to senior officers about a junior police officer who fails to fulfil responsibilities or solicits bribes (Commonwealth Human Rights Initiative, 2007). These are some of the weaknesses of the accountability measures currently in place in Ghana's police force.

From 2001 to 2005 the Monitoring and Inspection Unit was the responsible body for maintaining internal accountability within the police service in Ghana (Commonwealth Human Rights Initiative, 2007). The unit was receiving complaints from the public about misconduct of the police and was unfortunately shut down due to shortage of resources (Commonwealth Human Rights Initiative, 2007). As of 2006 to date, the Police Intelligence and Professional Standards Bureau (PIPS) is now a responsible body for receiving and investigating complaints about police officers from the public (GPS , 2013d). The officials who serve within PIPS are police officials with clean records. The motive behind PIPS is to ensure that there are favourable relations between the police service and the public, secondly it is a way to show the public that police are subject to accountability (Alhassan and Senah, 2011).

External mechanisms have also been present in Ghana to ensure accountability of the police officers. Media outlets and the civil society are important social entities that ensure that police officers are kept in check through reporting and creating awareness campaigns about incidents of misconduct (Commonwealth Human Rights Initiative, 2007). Moreover, there are government statutory bodies that ensure accountability of the GPS. These government accountability bodies are: Police Council, Regional Police, Committees, Commission for Human Rights and Administrative Justice, Parliament and judiciary (Commonwealth Human Rights Initiative, 2007). The Government bodies in Ghana are mainly tasked with monitoring the conduct of the police officers and evaluating their performance (Alemika, 2011).

With these somewhat weak controls in place, the GPS has been affected by corruption. There are no statistics concerning Ghanaian police corruption in 2001. But in 2004 corruption perception was recorded as 4.5 out of 5 which can be translated to 90 % perceived corruption of the police which rendered the police service the most corrupt perceived agency (Transparency International, 2004). In 2011 the GPS was still perceived as the most corrupt entity as about 91% of the citizens perceived the agency as corrupt (Transparency International, 2011).

Lack of controls in relation to the accountability of senior police officers is one of the serious flaws that interfere with ensuring accountability. The existing controls show that not all police officials are equally accountable. Moreover, the increasing perception of corruption within GPS from 2004 to 2011 is negative in fighting drug trafficking in Ghana. Corruption leads to loss of public trust and integrity towards police officials. Moreover, corruption opens a room for drug traffickers to operate with liberty. Drug traffickers will not only attempt to bribe police officers but they will also attempt to attract these officials into being full-time partners in drug trafficking activities.

### **3.2.6. Technical capacity on drug trafficking**

#### **3.2.6.1. Technical skills and strategic institutions**

Issues of technical capacity being central to increasing drug trafficking activities have been raised in Ghana, especially within GPS where it has been cited as weak and unable curb drug trafficking. The inability of the police officials to utilize advanced technological devices has negatively affected attempts to deal with drug trafficking activities in Ghana. The e-governance was introduced in 2011 something which has led to GPS personnel being trained on utilizing information technology devices (Rocklyn, 2011). Through training, officials will be well informed about crimes that involve the use of these devices and this will speed up investigations (Rocklyn, 2011).

Within the GPS, the Research, Planning and Information and Communication Technology (RPICT) is an important division as it enhances technical capacity within the police service (Daily Graphic, 2012). The RPICT creates systems for the smooth functioning of the police service. RPICT also carries out research on the challenges faced by the GPS, as well as assisting personnel on how to design training programmes (Daily Graphic, 2012). Through research by RPICT, it has been noticed that police officials based in rural areas face a number of issues amongst them being communication which has been dealt with through the distribution of cell phones (Daily Graphic, 2012). Computers have also been supplied, something which has been cited as a way of facilitating communication and sharing information, a significant move in dealing with drug trafficking (Ghana Business News, 2013).

Through the RPICT, the GPS formulates strategic plans aimed at improving the GPS where it is failing. The First National Policing Plan 2006 to 2009 and the Second National Policing Plan 2010 to 2014 are amongst strategic plans that acknowledge weaknesses and successes of the GPS, they also outline future plans to improve where the GPS has been failing (GPS, 2010). In order to improve policing in Ghana and deal with illicit activities like drug trafficking a number of resolutions have been taken. The recommendations as detailed in the 2010 to 2014 strategic Plan are important resolutions to deal with drug trafficking, they include: creating competency, accountability, supplying equipment, and providing favourable working conditions (GPS, 2010). The PIPS established in 2006 is another important strategic unit within the GPS as it is tasked with monitoring and evaluating plans, as well as collecting data on crime trends and computing crime statistics (GPS, 2013).

Although shortage of skills related to information technology within the GPS has been the issue, it is clear that these issues have since been addressed through the introduction of e-governance programme. Moreover, RPICT has led to a number of improvements within the GPS which is indeed assisting in curbing drug trafficking. Informed decisions have led to the formation of effective plans and strategies. However, the challenge pertaining to the technical capacity of the police service in Ghana has been the inability to compute statistics. This is based on the fact that statistics on crime are barely available. These statistics are available mostly from media, and organizations like the United Nations and the World Bank. The GPS must however be given credit for being able to set up future strategic plans, deal with issues regarding resource shortages and for being able to improve availability of statistics from 2010. It is therefore clear that technical capacity in relation to drug trafficking in Ghana has improved since 2011 but a lot still needs to be done in this regard.



### **3.2.7. Extractive capacity on drug trafficking**

#### **3.2.7.1. Funds**

Ghana is considered as one of the developing countries which means that it is a country with a well-functioning extractive capacity. The economy has been developing in Ghana since 2001, as the Gross National Income (GNI) previously called GNP was 300 US dollars per capita in 2001 increasing to 1,410 US dollars per capita in 2011 (World Bank, 2012). However this economic development has not translated to more funding being allocated to curbing drug trafficking. Limited budget has contributed to the shortage of resources and appalling working conditions within GPS. In 2005 to 2009 about 80 % of the budget was used for salaries leaving only 20 % for functions like improving infrastructure (GPS, 2010). There have been a number of recommendations made for dealing with budgetary issues affecting the GPS. In 2011 a number of donors availed themselves through donating finances and equipment to the GPS (Ghana Business News, 2013).

Extractive capacity is clearly one of the struggling capacities in dealing with drug trafficking activities in Ghana. The fact that much of the allocated budget is mostly used for paying salaries while fewer funds are allocated, and the budget is left for other needs deprives the ability of Ghana to deal effectively with social ills like drug trafficking. Most capacities are experiencing difficulties due to extractive capacity, specifically the shortage of funds is to blame. Moreover the situation is however improving as donations have been helpful in assisting with deficient budget. It must be stressed that a lot still needs to be done to ensure that Ghana is self-sufficient and does not rely on donations as donors are unreliable. Also, as evidenced with the Structural Adjustment Programs (SAPs), loans and donations usually come with strings attached.

### **3.3. State capacity on drug trafficking in South Africa**

#### **3.3.1. Actors**

Unlike Ghana, South African drug trafficking networks are mostly economic criminal groups. Actors involved in drug trafficking in South Africa are both local and foreign nationals. They act as cultivators, processors, distributors and consumers of drugs interchangeably. The roles of actors depend on the type and nature of the drug. The cultivation aspect of some drugs has been within South Africa, marijuana for example is cultivated by South African nationals in remote areas (Venter, 1996). Cultivators of marijuana in South Africa are mostly from the Eastern Cape and KwaZulu-Natal. Some cultivate the plant in large quantities for selling, while various groups cultivate it in small quantities for self-consumption (Kepe, 2010). Others do both.

The processing of some drugs is usually carried out by actors specializing in that activity. In South Africa, mandrax is processed and manufactured in secret laboratories (Drugaware, 2013). Moreover, drugs like marijuana require minor preparation that can be carried out by cultivators, suppliers and even consumers of the drug (Kepe, 2010). Cocaine reaches South Africa already processed (Drugaware, 2013b). It is mostly nationals from West African countries who supply cocaine into South Africa (Drugaware, 2013b). In some instances cocaine dealers from South America and West Africa use South African youth to smuggle the substance abroad and within the country (Drugaware, 2013b). Due to low salaries received by state officials, criminal groups are able to bribe state officials to facilitate drug trafficking activities (Hubschle, 2011). The consumption of drugs such as marijuana has involved both local and foreign nationals, while mandrax and cocaine has been consumed heavily by South African nationals (Legget, 2002). The relations amongst these actors, namely: cultivators, processors, distributors and consumers are significant in drug trafficking to determine the amount of drugs being trafficked. This is based on

the fact that marijuana is least imported due to local surplus, while cocaine is heavily imported due to its scarcity within the country.

### **3.3.2. Interests and Incentives of actors**

Any form of a crime is a rational behaviour where the cost and the benefit is analysed in the presence of scarcity. Drug trafficking has always been centred on monetary and material gain for cultivators, processors, and distributors. For consumers, drug abuse is for recreational purposes. The profitability of marijuana for distributors and sellers is usually scarce dependant, but the standard street price for a matchbox sized parcel in South Africa is 0. 21 US Dollars (Kepe, 2010). The issue of scarcity increasing the price is exhibited when dagga from South Africa is sold in the European and Northern American markets as one KG can be purchased at a price of 106 US Dollars (Drugaware, 2013c). In the South African market one KG can be purchased between price ranges from six to nine US Dollars (Drugaware, 2013c). Marijuana farmers therefore make less profit, than distributors who are able to sell the substance abroad. Unlike marijuana, cocaine is imported to South Africa already prepared. For South African youth that is tasked by drug dealers from South America there are huge financial incentives if they are able to successfully traffic drugs like cocaine abroad or into South Africa (Drugaware, 2013b).

### **3.3.3. Resources of actors and the impact of their operations**

Drug traffickers possess ample resources which are able to confront the state and speed up activities of drug trafficking without detection. For marijuana, the availability of land is an important resource as this is where the marijuana plant is cultivated. With the illicit proceeds from drug trafficking, drug dealers are able to create laboratories where the processing of drugs like mandrax occurs (Drugaware, 2013). Moreover, criminal groups are also able to utilize state resources like

ports to transport drugs abroad and into South Africa (Shanty and Mishra, 2008). There have been a number of incidents where drug traffickers have tried to breach security in airports (Warner, 2010).

Operations of drug trafficking in South Africa have led to a number of problems. Drug trafficking has created an economic sector of ill-gotten proceeds which has been instrumental in the weakening of the state. Criminal groups receive proceeds from drug trafficking which are used in the corruption and incapacity of the state (Van Dijk, 2007). The availability of drugs in South Africa has also led to drug abuse by the youth which has links with drug related crimes. Drug trafficking activities in South Africa have also made the country to play numerous roles to the activity (Williams, 1997). As things stand, South Africa is now a home state to its own drug traffickers and those from West African countries. Secondly, the country is a host state as it has markets that are consuming drugs like marijuana, cocaine and mandrax to name a few. South Africa is also a transshipment state for drugs from South America destined for Europe and Asia.

### **3.3.4. Regulatory capacity on drug trafficking**

#### **3.3.4.1. Rule of law**

Like Ghana, South Africa is one of the parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Nkosi, 2011). As mentioned above with reference to Ghana, this convention binds member states to criminalise drug trafficking (Nkosi, 2011). In addition to the Convention, the AU formulated a plan which urges member states to formulate policies and legal mechanisms in dealing with drug trafficking (Nkosi, 2011). The Southern African Development Community (SADC) also created a regional initiative which complements the convention against drug trafficking which has also encouraged the criminalisation of drug trafficking (Nkosi, 2011).

The Drug and Drug Trafficking Act of 1992 is an important component in criminalising drug trafficking in South Africa. The 1992 Act stipulates, inter alia: which substances qualify as illegal drugs, conducts or acts that qualify as drug trafficking, and steps that should be taken in drug trafficking cases. The Drug and Drug Trafficking Act of 1992 is consistent with the 1998 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and has been in existence prior the convention (Nkosi, 2011). Furthermore, policies have also been formulated to curb drug trafficking activities in South Africa (Burger, 2006). Examples of such policies are the National Crime Prevention Strategy (NCPS), and the Policing and Crime Prevention (Burger, 2006). Moreover, the Policing and Crime Prevention has been effective, as it is specific about which agency is responsible for the prevention of crime (Burger, 2006).

Regulatory capacity in relation to drug trafficking is a well-established capacity in South Africa. The fact that the country has been able to formulate laws that meet international standards in dealing with drug trafficking shows the political will of the country to criminalise drug trafficking. The cooperation of the country with other African countries shows progress towards dealing with the problem of drug trafficking. The formulation and implementation of policies also shows the seriousness of the country to improve its capacity through complementing statutes tackling drug trafficking.

In terms of international statistics, South Africa has been performing well. From 2001 to 2011 according to World Bank (2012: 6) South Africa has recorded improved rule of law percentile as it increased from 55 % to 60 %. Drug trafficking incidents in 2001 increased by more than 10 % especially cocaine trafficking (United Nations, 2003). In 2011 the trend continued where drug trafficking increased by more than 10 % (United Nations, 2003). Moreover, the SAPS has also

recorded that from 2009 to 2011 drug related crimes were the most increased crimes at 12 %. Interestingly, during the period 2009 to 2011 the World Bank (2012) recorded that the rule of law percentile increased from 57 % to 60 %. Unlike Ghana, South Africa falls within the category of countries where improved rule of law has led to a majority of drug related crimes being detected. This is based on the assumption that countries that record percentile rule of law above 50% and high crime incidents are efficient as crime incidents are being detected.

Law enforcement and how the justice system addresses issues of criminal activities are coordinated by the Justice Cluster at cabinet level (INCSR, 2010). To illustrate the effectiveness of the Justice Cluster, South Africa has existing relationships with countries like the US in terms of extradition and legal assistance where required (INCSR, 2010). Law enforcement is the duty of the SAPS as outlined by the South African Constitution (Burger, 2006). Law enforcement should be achieved through prevention, and investigation of crime and maintaining order within the society (Burger, 2006).

In terms of preventing drug trafficking activities, the border police within the SAPS division has the responsibility to prevent and detect drug trafficking in land, air, and sea border posts (INCSR, 2010). Prevention is facilitated through the availability of information in terms of trends such as conditions encouraging the occurrence of illicit activities like drug trafficking (Burger, 2006). The role of the SAPS in relation to prevention has been to remove conditions that create opportunities to plan illicit activities, and focus more on areas where a particular crime is on the rise (Burger, 2006). In instances where crime has already been planned or attempted the focus is on limiting factors that are necessary for the occurrence of such a crime (Burger, 2006).

As a deterrent for drug trafficking, the presence of SAPS officials across borders has been maintained (Hennop et al, 2001). In relation to the prevention of drug trafficking and other forms of TOCs, the SAPS has been responsible since 2004 (Auditor General, 2008). Prevention of drug trafficking has not been facilitated through police presence across borders only, but the SAPS has created awareness programs educating society about illegal drug use (INCSR, 2010). In the year 2010 to 2011 increased SAPS crime prevention actions led to a number of arrests, in relation to drug trafficking. Drugs valued at about 139 724 88 US Dollars were seized in 2010 to 2011 (SAPS, 2011). Moreover, prevention of crime most notably violent crimes linked with drug trafficking especially in the rural areas has proven to be a challenge (Montesh and Basdeo, 2012). This has seen the South African National Defence Force (SANDF) being called upon to play a leading role in curbing drug trafficking across borders from 2009 (Montesh and Basdeo, 2012).

Concerning law enforcement in terms of preventing drug trafficking it is clear that much has been done. The presence of different divisions each with its task to be performed towards preventing drug trafficking has been effective. The effectiveness of other divisions is evidenced by the success rate of the SAPS in certain crimes such as arrests that led to the finding of drugs valued at about 139 724 88 US Dollars. However, the inability to deal with drug related crimes effectively has shown that much still needs to be done to prevent drug trafficking. With the availability of the divisions tasked specifically with the investigation of particular crimes within SAPS, this shows the progress of the country towards dealing with drug trafficking. The priority of how investigations occur has been effective as it has enabled the SAPS to link crimes that are associated with drug trafficking. The success of the SAPS in investigating drug related crimes shows that the country has the capacity to ensure law enforcement where drug trafficking crimes have occurred.

Where a crime such as drug trafficking has already been executed the duty of the SAPS is to investigate such a crime (ISS, 2002). The second form of investigation is carried out where a number of crimes have been carried out and the law has been unable to link all individuals who were involved in the commission (ISS, 2002). In drug trafficking cases, a responsible body within the SAPS will carry out such investigation, but in cases of different crimes being linked, a number of bodies within the SAPS will be called upon to investigate (ISS, 2002). About 70 % of the prisoners who have been involved in drug related activities are in drug rehabilitation programs through the assistance of NGOs (INCSR, 2010), this shows progress in dealing with drug trafficking.

The detective service within the SAPS is an important component for this aspect as it carries out investigations, analysis and collection of evidence where a crime has already occurred (SAPS, 2011). Investigation of crimes has facilitated the detecting of crime and preparation of cases, the detection rate of serious crime which includes drug trafficking increased from 50.47 % in 2009 to 2010 and 51.84 % in 2010 to 2011 (SAPS, 2011). The significance of this is to deal with perpetrators from participating in crime in future. This also reinforces the fact that the rule of law in South Africa is efficient enough to detect the majority of crimes or criminal activities.

### **3.3.5. Administrative capacity on drug trafficking**

#### **3.3.5.1. Personnel**

Administrative capacity in relation to curbing drug trafficking in South Africa has been a problem even though the SAPS has been working in cooperation with the SANDF between 2001 to 2004 (Hennop et al, 2001). Shortage of personnel serving on boarder control posts has at one point forced



an arrangement in which only hotspots of criminal activity have been protected, leaving other borders unprotected from drug trafficking (Hennop et al, 2001). Shortage of personnel has been prevalent in harbours, this being reflected by high utilization of private security personnel serving in posts that are supposed to be filled by police officers (Minnaar, 2003). This problem has not been on sea borders only, but has been prevalent in air and land borders constraining administrative capacity when private security officials leave posts or are not properly trained nor experienced (Minnaar, 2003).

After the transfer of border policing duties from the SANDF to the SAPS from 2004 to 2009, administrative capacity was even more constrained in combating drug trafficking (Auditor General, 2008). Amongst challenges were: shortage of personnel, inefficient training as there was no training programme after the SANDF handed over border policing duties (Auditor General, 2008). In addition, the issue of skills shortages on the part of personnel has even been acknowledged by the SAPS (2010) in which it is cited as the contributing factor to the ability of the agency to crackdown crimes like drug trafficking. Issues of private security companies being highly utilized has been prevalent in cities like Johannesburg where security services have even been employed within SAPS premises (Gossmann and Premo, 2012). The rise of incidents of breached security controls by drug traffickers in airports has reflected on the extent of South Africa's administrative capacity to combat drug trafficking (Warner, 2010). The promotion system within the SAPS has contributed to the inability of the agency to use the potential it has to improve its administrative capacity. It is stated that the promotion of highly skilled detectives to administrative posts deprives the agency to utilise such talent (Bentley and Connor, 2010).

The number of police officials has been cited as inadequate for dealing with illicit activities like drug trafficking. Comparing South Africa and South Korea with an almost equal population size, South Korea has more police than South Africa (Montesh and Basdeo, 2012). To illustrate this, currently the police officers ratio is one police officer for every 305 citizens in South Africa (SAPS, 2012), while the police officers ratio for South Korea is one police officer for every 202 citizens (Korean National Police Agency, 2011). The SAPS increased the number of police officials from 131483 in 2003 to 193892 in 2011 (SAPS, 2012). Moreover, the United Nations has also proposed that the proposed ratio is one police officer for every 500 citizens (Aning, 2006). This means South Africa has met the minimum ration.

Administrative capacity in relation to personnel to curb drug trafficking in South Africa is struggling. The shortage of personnel has affected the effectiveness of the SAPS to curb drug trafficking. This has seen a call for the SANDF to be the central agency in dealing with land border policing which used to be a task of the SAPS. The issue of private security services being employed for posts that should have been carried out by SAPS has shown the effects of personnel and resource shortages affecting the capacity of the agency. While many challenges have constrained the SAPS in improving its administrative capacity in relation to the availability of resources, the use of trained dogs in drug detection has been effective. Moreover, the SAPS should be credited for addressing the promotion system which has affected the availability of qualified personnel. The agency should also be credited for being able to increase the number of police officials from 2003 to 2011.

### **3.3.5.2 Infrastructure**

The shortage of tools is another major challenge in improving administrative capacity especially in curbing drug trafficking in South Africa. Since the involvement of the SANDF from 2001 to 2004 in border policing in cooperation with the SAPS, shortage of resources and inability to maintain existing resources has been a challenge (Hennop et al, 2001). Amongst the challenges noted in 2002 within SAPS were: shortage of scans, ineffective documentation verifying system, and lack of information sharing systems between agencies (Minnaar, 2003). More recently the problem of scarce resources has troubled the SAPS making it difficult to crackdown drug trafficking, as the Auditor General noted in 2008. Transfer of duties from SANDF to the SAPS from 2004 to 2009 and SANDF's unwillingness to transfer all resources to the SAPS has been a limiting factor in combating drug trafficking (Auditor General, 2008). Moreover, the cancellation of a tender in 2011 which was to capacitate SAPS with equipment is amongst problems faced in combating drug trafficking (Flanagan, 2011). The issue of infrastructure is likely to remain a serious problem if sensible decisions are not made.

### **3.3.5.3 Working conditions**

Working conditions are also an important element of administrative capacity. Gordon (2001) cites low salaries, and poor working conditions as responsible factors for the inability to keep and attract competent personnel in the SAPS. This has led to inefficient administrative capacity in curbing drug trafficking, as inexperienced and improperly trained personnel has been serving in border posts. The working conditions have been cited as appalling even when the SAPS worked with the SANDF in border policing. Evidence thereof is the shortage of communication tools, proper shelter as well as vehicles for patrolling around the border (Hennop et al, 2001). The Administrative capacity of the SAPS has been constrained after it took over border policing duties. SAPS has been

ineffective in dealing with drug trafficking through borders resulting into a call for the SANDF to be reintegrated into border policing to assist the SAPS (Montesh and Basdeo, 2012).

#### **3.3.5.4 Accountability**

Accountability is another important factor considered in relation to the administrative capacity of a state. The SAPS as one of the agencies responsible for ensuring accountability of the police officers has a number of mechanisms in place to facilitate this. The secretariat promotes accountability within the SAPS through monitoring progress of police officers through reporting cases of misconduct to the Independent Complaints Directorate (ICD) the now Independent Police Investigative Directorate (IPID) (Davies et al, 2003). Community policing has also been adopted as one of the mechanisms to foster police accountability (Davies et al, 2003). The Community Police Forum (CPF) is one of the models that have been adopted in which community representatives in coordination with the police observe, and offer advice in relation to curbing crime levels (Gordon, 2001). The CPF in cities like Johannesburg has been responsible for dealing with drug related crimes in partnership with the police (Davies et al, 2003). However, the CPF model has been ineffective in ensuring accountability within SAPS due to: lack of community cohesion and organization in townships, and the view that CPFs are tools for collecting information for the police rather than partners (Davies et al, 2003). Partnership between CPFs and the police has seen CPFs being seen to be only dealing with issues of social disorder and the police confronting actual crime (Gordon, 2001).

Limited mechanisms of measuring performance, planning, and initiatives of keeping management and leadership abreast about latest trends of crimes like drug trafficking and their prevention has

been noted (Aboagye, 2007). There has also been limitation of properly implementing mechanisms to measure performance and punish misconduct (Gossmann and Premo, 2012). Moreover, conducts such as alleged acceptance of bribes, misuse of facilities, absenteeism, have all negatively affected the administrative capacity in tackling drug trafficking (Gossmann and Premo, 2012). Lack of communication and distrust between agencies that are responsible for border control has interfered with prevention and or curbing of drug trafficking (Hennop et al, 2001). Much still needs to be done in relation to accountability in curbing drug trafficking. A total of 23 % of South Africans in 2002 perceived the police agency as corrupt, making the SAPS the most corrupt entity in the country (Transparency International, 2004). In 2011, the police service was still perceived as the most corrupt agency within South Africa as about 82% perceived police as corrupt (Transparency International, 2011).

The fact that the ICD tends to focus much on domestic policing issues and little attention is paid on transnational illicit activities like drug trafficking is problematic in curbing drug trafficking. The use of CPFs has also proven to be a failure in ensuring accountability due to societal configurations. The management and leadership of the SAPS have not engaged other similar agencies dealing with similar issues. Secondly, alleged corrupt practices by executives of the SAPS have negatively affected the integrity of the agency.

### **3.3.6. Technical capacity on drug trafficking**

#### **3.3.6.1. Technical skills and strategic institutions**

Technical capacity is another important factor in relation to the prevention of drug trafficking. Training programmes for personnel specializing in border policing have been established in

cooperation with other actors from other countries. Secondly, agencies such as Southern African Regional Police Chiefs Co-ordination Organisation (SARPCO) have assisted in capacity building for dealing with drug trafficking (Hennop et al, 2001). In 2005, the SAPS was able to establish Justice, Crime Prevention and Security (JCPS), a strategic unit which directly deals with organized crime including drug trafficking (United Nations, No Date). Moreover, the National Evaluation Service evaluates and assists in the implementation of plans to improve the level of service delivery within the SAPS (United Nations, No Date). The SAPS generates statistics of all crimes on a yearly basis, with drug related crimes increasing from 2003 to date (SAPS, 2012). Lastly, statistics on the corruption of SAPS officials are well documented with about 1061 investigations, leading to the arrest of 469 police officers charged with corruption in Gauteng in the year 2010 to 2011 (Kinnes and Newham, 2012).

Strategic planning and availability of information in relation to formulation of plans to deal with drug trafficking and other forms of TOCs has been the issue in the SAPS. There has been inefficiency in adopting a holistic approach to control borders since the 2004 withdrawal of SANDF from border control (Auditor General, 2008). The withdrawal of the SANDF from border control in 2004 has led to the SAPS not being able to produce documents detailing border policing and divisions of border policing duties through policies (Auditor General, 2008). Moreover, as the SAPS took over in 2004 in border policing, a vacuum was created in the analysis and evaluation of intelligence services and information gathering allowing the occurrence of TOCs (Auditor General, 2008).

As the SAPS has acknowledged its challenges in dealing with drug trafficking it has seen a number of strategic plans being executed, such as the Strategic Plan 2010 to 2014 (SAPS, 2012). The plan

tracks down progress of the agency in dealing with increasing recruitment, addressing skills shortages, as well as infrastructure shortages (SAPS, 2012). Moreover, the technical capacity of the SAPS has also been facilitated by detective service which deals specifically with crimes like drug trafficking where plans to retain personnel serving in this division have been implemented (United Nations, No Date). Furthermore, the legal services division provides legal services in terms of application, drafting, and interpretation of policies as well as offering assistance in dealing with crime operations (United Nations, No Date).

It is clear that a lot has been done to improve technical capacity to prevent drug trafficking since 2001. The availability of divisions in relation to training programmes shows improvement in terms of technical capacity to deal with drug trafficking. Moreover, the SAPS is a capable agency in terms of technical capacity as it has been able to compute crime statistics. The ability of the SAPS to formulate and implement plans specifically aimed at fighting drug trafficking shows that the agency is capable.

### **3.3.7. Extractive capacity on drug trafficking**

#### **3.3.7.1. Funds**

In terms of economic productivity or extractive capacity, South Africa is categorised as the upper middle income developing country. The GNP now known as GNI has been improving from 2, 830 US Dollars per capita in 2001 to 6, 960 US Dollars in 2011 (World Bank, 2012). Concerning spending on anti-drug trafficking activities, in 2001 financial constraints led to human resource shortage, and keeping capable personnel as short term staff had to be deployed in the SAPS's border policing division (Hennop et al, 2001). Moreover, although much progress has been made

between 2001 and 2008, the problem of staff and resource shortages due to financial constraints has been a challenge in curbing drug trafficking (Auditor General, 2008). However, in 2008 South Africa spent 350 million US Dollars on improving its technological systems used by SAPS which has been instrumental in dealing with drug trafficking (United Nations, No Date). In 2012, the budget of the SAPS has prioritised on spending on detective services to improve the effectiveness of the agency (SAPS, 2012).

It is clear that South Africa as an economically well-positioned country in Africa has been able to strengthen its extractive capacity in dealing with drug trafficking. This is on the basis that economic development from 2001 to 2011 has coincided with more funds being channelled towards curbing drug trafficking. One of the serious flaws has been that allocated budget seems not to be doing what it is supposed to be doing as most capacities have experienced difficulties due to insufficient funds, an obvious example being shortage of police officials and equipment. Extractive capacity is however improving but much still needs to be done to curb drug trafficking in South Africa.

### **3.4. Conclusion**

In summation of this chapter, it should be noted that the chapter has looked at drug trafficking in relation to regulatory, administrative, technical, and extractive capacities as elements of state capacity in Ghana and South Africa. The agencies of primary law enforcement – GPS for Ghana and SAPS for South Africa – are areas where the analysis of this chapter focused on. Each of these areas was closely investigated with the view to demonstrating how Ghana and South Africa have performed in the areas mentioned above.



## **Regulatory capacity**

Regarding the regulatory capacity, for rule of law, this was grounded on the examination of international and regional organizations to which Ghana and South Africa are member states. Conventions and decisions of these organisations were looked at.

For both countries in question, conventions and decisions considered were: the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the AU 2007-2012 plan against drug trafficking. In Ghana, the resolution of ECOWAS to support initiatives of the United Nations and the AU was of importance. The response, which is the 1990's Narcotic Drug Enforcement and Sanctions was analysed in relation to the conventions.

For South Africa, the regional initiatives by SADC to confront drug trafficking has assisted in the formulation of the Drug and Drug Trafficking Act of 1992 which conforms to international standards.

## **Administrative capacity**

Pertaining to the administrative capacity, the police officer ratio per citizen was profiled in Ghana and South Africa. Comparison of recommended international police officer ratio per citizen was also made. Infrastructure and working conditions were profiled for both countries, as well as accountability mechanisms.

### **Technical capacity**

As far as technical capacity is concerned, issues regarding skills shortages for officials of both GPS and SAPS were looked at, in relation to whether both countries have similar weaknesses and strengths and the impact thereof in drug trafficking.

### **Extractive capacity**

Concerning extractive capacity, a point was made that funding and budget for GPS and SAPS showed major differences. For Ghanaian police funding was mainly from donors, while for South Africa funding was mainly from the state.

Noticeably, from 2001 to 2011 much progress has been made by both countries to improve their capacities to curb drug trafficking despite the financial challenges they have to contend with. But, as argued above, many issues still need to be attended to by both countries especially on extractive capacity.

### **Overall concluding remarks**

It has become apparent in this chapter that both countries do not have perfectly formed elements of state capacity. It is especially the economic strengths of these countries which differentiate their capacities in curbing drug trafficking. For Ghana which has a less advanced developing economy, this has impacted negatively on other elements of state capacity through shortage of finances. For South Africa which has an advanced developing economy, extractive capacity has been well

established, but the major pitfall has been inappropriate use of funds leading to budget being scarce and having negative effects on other capacity areas of the state.

The next chapter, which is chapter four looks at money laundering and state capacity in Ghana and South Africa. In the same fashion as chapter three, chapter four looks at elements of state capacity namely: regulatory, administrative, technical as well as extractive capacity. The analysis is based on GPS and SAPS as primary law enforcement agencies in both Ghana and South Africa.

## **Chapter Four: Money Laundering and State Capacity in Ghana and South Africa**

### **4.1 Introduction**

Money laundering is conceived as the meeting point of most criminal activities in many countries where related crimes are prevalent. This is on the basis that after commission of a crime for monetary gain, money laundering will be required to dissociate money with the criminal activity. In terms of crimes contributing to money laundering it is TOCs especially drug trafficking that has the largest portion of proceeds that are laundered (United Nations, 2011). The previous chapter has embarked on the analysis of state capacity elements of Ghana and South Africa in relation to drug trafficking. This chapter concentrates specifically on what happens to drug trafficking proceeds and proceeds emanating from other crimes.

This chapter profiles state capacity on money laundering mainly concentrating on Ghana and South Africa. The elements of state capacity, namely: regulatory, administrative, technical, and extractive capacities are the focal points of the analysis.

The chapter firstly profiles the state of money laundering in Ghana and South Africa by looking at actors involved, their interests and incentives, the resources they possess and the impact of their operations. In both countries it appears that actors pursuing money laundering are those who have obtained proceeds or wealth from or through illicit activities. Other types of actors involved in money laundering operations in Ghana and South Africa are those facilitating money laundering by assisting criminal groups. In terms of interests and incentives of actors involved money laundering in Ghana and South Africa, money is the main incentive. Depending on the actor, money serves

different interests; for some it is used to boost one's personal economic success and some go as far as using it in financing terrorism. Pertaining to resources possessed by actors conducting money laundering and the impact of their operations in Ghana and South Africa, it appears that laundered money becomes a resource used to access other resources. The impact of money laundering operations is: widespread corruption, violence and expansion of other illicit activities.

In profiling state capacity in relation to money laundering in Ghana and South Africa, this is how the elements of state capacity are looked at:

### **Regulatory capacity**

The regulatory capacity takes a look at international and regional commitments aimed at facilitating anti-money laundering mechanisms in Ghana and South Africa. It looks at the steps that have been taken to fulfil international and regional commitments. Anti-money laundering resolutions and or conventions are looked at. Pieces of legislations addressing money laundering in Ghana and South Africa are outlined and evaluated whether they are consistent with international and regional commitments of curbing money laundering. The mechanisms put in place by agencies responsible for the rule of law in Ghana and South Africa to curb money laundering and their effectiveness are analysed.

### **Administrative capacity**

The main variables being looked at here are: Personnel, Infrastructure and working conditions and accountability. The main issues pertaining to personnel include the following: whether there is

enough qualified personnel for agencies curbing money laundering in Ghana and South Africa, mechanisms to retain, recruit and train personnel. Regarding infrastructure, aspects covered here are whether infrastructure and conditions are conducive for dealing with money laundering in Ghana and South Africa. For accountability, mechanisms to ensure accountability of anti-money laundering bodies and their employees are outlined and evaluated in terms of their effectiveness.

### **Technical capacity**

There are two main issues concentrated on here. Firstly it is established whether anti-money laundering bodies have the edge in terms of technical capacity to deal with money laundering. Second issue being looked at, is whether personnel do possess the necessary skills to reduce money laundering in the two countries used as case studies in the present study.

### **Extractive capacity**

The economic strength of Ghana and South Africa is looked at in relation to money laundering. The issue addressed is whether economic growth has translated to better strength in dealing with money laundering in both countries.

The national agencies to which the analysis is based upon are: GPS, Financial Intelligence Centre (FIC) in Ghana. The SAPS and the FIC are agencies looked into for South Africa. This is on the basis that these agencies are central in dealing with money laundering in both countries.

## **4.2. State capacity on money laundering in Ghana**

### **4.2.1. Actors**

At the forefront of money laundering activities in Ghana are actors who have been involved in criminal activities most notably drug trafficking, as well as officials from state and financial institutions. Syndicates, entrepreneurs work in collaboration with state officials to pursue money laundering activities in Ghana (Addo, 2006). Drug traffickers that are either of Nigerian descent or Ghanaian who form partnerships amongst themselves in laundering drug proceeds (Ellis, 2009). In some instances the issue of expertise and specialization has been the way criminal groups partner in money laundering (Ellis, 2009). Except laundering drug proceeds, criminal groups are also involved in the laundering of proceeds from other illicit activities like small arms proliferation, human trafficking, illegal trading in natural resources, and trading in fraudulent medicines (Addo, 2006).

State officials and entrepreneurs in Ghana are mainly involved in the laundering of wealth that has been obtained through corrupt means. The officials are usually in close cooperation with personnel serving in financial institutions like banks (Addo, 2006). It must be clarified though that in as much as money laundering actors in Ghana are involved in different activities, the majority of actors are those involved in drug trafficking activities.

### **4.2.2. Interests and Incentives of actors**

The interests and incentives of money laundering activities mainly revolve around money which is used to serve different interests. For economic criminal groups in Ghana the main aim is to have legitimate money to be used in the further occurrence of illicit operations (Bolaji, 2010). Laundered

profits are also to enhance economic success (United Nations, 2005). The purchasing of expensive property estates in Ghana by those alleged to be involved in illicit dealings has emphasized the use of laundered proceeds for personal economic success (GIABA, 2013). Moreover, the benefits of being a money launderer put one in the list of the chosen rich class attending expensive parties, and owning expensive property (Ellis, 2009). In some instances those coming from poor economic backgrounds are more than willing to engage in criminal activities as these activities provide livelihood (Ellis, 2009). For political criminal groups clean laundered money is used in funding acts of terrorism within Ghana or in other countries (Bolaji, 2010).

#### **4.2.3. Resources of actors and the impact of their operations**

Money is the main resource for actors involved in money laundering operations. Money is therefore used to speed up money laundering operations. With huge amounts of laundered money being available, a number of advances are executed to facilitate money laundering in Ghana. Enterprises are set up to make it appear as if illicit proceeds are licit profits being generated from entities like second-hand car businesses, outlets trading in diamonds, and fashion clothes outlets (United Nations Office on Drugs and Crime, 2005). In some instances institutions like banks are willing to assist in the laundering of proceeds and wealth obtained through corrupt practices in Ghana through bribes (Addo, 2006). Financial transfers' operators at times unknowingly facilitate money laundering through money transfers facilities in which money from illicit activities is made to appear to have emanated from informal sector of the economy (Higazi, 2005). Employees serving in law enforcement agencies in Ghana are also bribed using illicit proceeds to assist criminals involved in money laundering with forged documents to escape prosecutions by state operatives (Ellis, 2009). Politicians and administrators of other state institutions in Ghana are also urged to



provide favourable conditions for money laundering as well as other illicit activities through bribes from ill-gotten money (Ellis, 2009).

The impact of money laundering operations has been dire for Ghana. For example, in some instances laundered proceeds are facilitating conflicts and wars in other West African countries (Ellis, 2009). Instances of terrorist groups – even outside Africa – having business like partnerships with criminal groups operating in Ghana, are well documented. These partnerships amongst criminal groups have been based on the supply of weapons and other tools to facilitate terrorism and other criminal activities through laundered proceeds (De Andres, 2008). Other TOCs like small arms proliferation in Ghana have shown a significant growth and expansion due to purchase of weaponry using laundered money (Vines, 2005). The growing industry of small arms trafficking in Ghana has also created easy access to weapons, increasing the level of violence in Ghana and other West African countries (Vines, 2005). Laundered proceeds increase access to weapons like small arms and trigger insecurities on the part of the public about safety (De Andres, 2008b).

Money laundering operations in Ghana have made the country to be considered as a service state for criminal groups from which financial institutions are strategically utilized by those involved in illicit activities. As criminals expropriate more proceeds from illicit operations, this threatens economic progress of Ghana as illicit economy is likely to inhibit economic growth coming from licit activities (Andres, 2008). This is based on the fact that illicit proceeds are sometimes invested into the licit sector of the economy, thereby leading to unhealthy competition as criminal groups opt to reduce prices of commodities and services. It must also be mentioned that money laundering in Ghana has also impacted on the increasing levels of corruption making investors and international organisations to be doubtful of law enforcement in the country (Transparency International, 2011).

#### **4.2.4. Regulatory capacity on money laundering**

##### **4.2.4.1. Rule of law**

In efforts to ensure improved capacity in terms of the rule of law in Ghana, a number of resolutions and conventions have informed Ghanaian law enforcement. Ghana is a signatory to a number of resolutions and conventions. The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is the first convention to target money laundering. The 1988 convention binds parties in terms of law enforcement towards laundering of drug proceeds (United Nations, 2013). Moreover, the 1997 Global Programme against Money Laundering (GPML) is another effort of the United Nations to advance the capacity of states in terms of the rule of law on money laundering. As a result of GPML, the 2000 United Nations Convention against Transnational Organized Crime was formulated. The 2000 convention extended the definition of money laundering to include laundering of proceeds from other illicit activities in addition to laundering of drug proceeds (United Nations, 2013). It urged member states not to only criminalise laundering of drug proceeds, but that laundering of all illicit proceeds must also be criminalised (United Nations, 2013). Besides criminalisation of money laundering, the member states must also put reasonable mechanisms of detecting money laundering activities (United Nations, 2013). The 2004 United Nations Convention against Corruption has also been launched which binds member states to formulate mechanisms to prevent and detect money laundering.

At continental level, the AU at a High-Level Inter-Governmental meeting held in Algeria, adopted the Plan of Action for the Prevention and Combating of Terrorism in Africa (AU, 2002). The AU's plan urges member states to be wary of strategic links amongst TOCs, especially terrorism with illicit activities like money laundering and drug trafficking (AU, 2002). In addition, the AU's action plan also calls for skills provision to personnel, formulation of statutes, and cooperation in

preventing and dealing with money laundering (AU, 2002). As a step forward to deal with money laundering, anti-money laundering mechanisms must conform to standards set up by the Financial Action Task Force (FATF). West African countries collaborated to form an anti-money laundering group (Cham, 2013). Countries in West Africa including Ghana formed Inter-Governmental Action Group against Money Laundering (GIABA) in 2000 to facilitate formulation and implementation of anti-money laundering laws (Cham, 2013). All these measures are aimed to curb the scourge of money laundering. A few others are discussed in the paragraphs below.

In responding to pressures from international actors a number of steps have been taken by the Ghanaian government to tackle money laundering. The Narcotic Drug Enforcement and Sanctions Law of 1990 has been existing prior to the international attention on money laundering but it limited money laundering to proceeds of drugs only. Ghana also passed the Banking Amendment Act 738 of 2007. Following that was the Anti-Money Laundering Act 749 of 2008.

The Banking Amendment Act 738 of 2007 mainly governs money laundering regulations around Ghanaian financial institutions. Amongst the provisions of the Banking Amendment Act is that, in cases of alleged money laundering practices, the banks must provide all the necessary details to the FIC. The Banking Amendment Act asks for non-disclosure of information of a client who is being investigated of money laundering provided that disclosure is permitted by law or if it is in the best interest of law enforcement.

The Anti-Money Laundering Act 749 of 2008 is also another piece of legislation aimed at curbing money laundering in Ghana. The Anti-Money Laundering Act establishes the FIC tasked with

facilitating law enforcement towards dealing with money laundering in Ghana. Also covered in the Anti-Money Laundering Act is the definition of what constitutes money laundering which is no longer limited to drug proceeds only. Being convicted for money laundering in Ghana according to the Anti-Money Laundering Act carries a fine or a prison term of not more than 10 years but not less than a year.

The GPS is mandated to be a central organ in Ghana in the prevention and detection of crime which includes money laundering (GIABA, 2009). In preventing and curbing money laundering in Ghana, the GPS works with a number of national, regional and international bodies (Interpol, 2013). FIC as was established in 2010 works in cooperation with GPS and ensures that accountable entities in Ghana are functioning in accordance with anti-money laundering mechanism as recommended by FATF (FIC, 2013). In detecting money laundering, FIC receives financial transactions information from accountable institutions. Such information is then given to investigating entities like GPS (FIC, 2013). In instances where a money laundering operation has been conducted, the FIC will furnish the GPS as an investigating body with information and advice in facilitating investigation (FIC, 2013). The Narcotics Control Board (NACOB) is also another important organ in Ghana that works closely with the GPS in combating money laundering as it specialises in investigating laundering of drug proceeds (NACOB, 2013).

There are serious weaknesses of Ghana's regulatory capacity in dealing with money laundering in the period 2001 to 2011. Firstly, Ghana has been unable to fully conform to the anti-money laundering recommendations of FATF. These are clearly evidenced by a number of issues such as absence of anti-money money laundering statutes until 2007. The absence of these statutes means that money laundering was only centred on drug proceeds in terms of the rule of law. This flaw

meant that the laundering of proceeds from other illicit activities was criminalised only in 2007 when anti-money laundering statutes came to effect. Moreover, the FIC only came into existence in 2010 meaning that a central body which had been working in close cooperation with GPS to combat money laundering was non-existent except NACOB which was limited in its scope.

As a result of the struggling regulatory capacity element in Ghana concerning money laundering, a number of issues have been raised as indicators and or facilitators of struggling regulatory capacity element. Indicators of struggling regulatory capacity are: the flourishing real estate bought through US Dollars linked with illicit proceeds and large amount of cash that is entering Ghana suspected to be laundered (GIABA, 2013). On the other hand, facilitators of struggling regulatory capacity are: an increasing view that Ghana has weak laws in relation to money laundering and lack of awareness on the part of the public about money laundering (GIABA, 2013). In the years 2001 to 2011, out of 143 developing countries, Ghana was ranked 98<sup>th</sup> in terms of the size of illicit economy (Kar and Freitas, 2012). In the same period, the influx of illicit proceeds to Ghana had increased from 513 US million Dollars in 2001 totalling two billion US dollars by 2011 (Kar and Freitas, 2012).

The above statistics clearly reflect on Ghana's regulatory capacity as a challenged capacity in curbing money laundering. However, Ghana's efforts have been improving as the country has now been recognised as fully FATF compliant based on implementation of statutes combating money laundering and FIC coming into existence (GIABA, 2013b). Moreover, FIC has been working as it has been able to detect proceeds of about nine million US dollars since its existence in only two years from 206 suspicious transactions (West Africa Democracy Radio, 2013).

#### **4.2.5. Administrative capacity on money laundering**

##### **4.2.5.1. Personnel**

Constrained budgets have caused a shortage of well qualified personnel serving in anti-money laundering agencies like FIC and GPS (Essel, 2012). When FIC was established in Ghana in 2010, it had no employees but only had about 23 employees in 2012 (Essel, 2012). Shortage of qualified anti-money laundering personnel is not only plaguing anti-money laundering agencies. Entities that account to FIC like companies and banks have been experiencing shortage of qualified accountants and auditors (World Bank, 2004). Shortage of accountants and auditors is cited to have emanated from poor educational arrangements in relation to training of accountants (World Bank, 2004). Moreover, lower salaries for accountants in Ghana also reduce the number of qualified accountants (World Bank, 2004). Existing personnel within FIC or GPS also does not receive adequate continued training to be well informed about money laundering trends (Chronicle, 2013). The GPS only trains specialists in certain expertise through National Police Training School (NPTS) based on demand (GPS, 2012). In case of demand for personnel specializing in money laundering, an organized crime training course is carried out (GPS, 2012). For FIC employees, a once off training course on money laundering is administered within the agency (Essel, 2012).

As FIC only had employees in 2012 it meant that from 2001 to 2011 Ghana had no functional agency facilitating law enforcement in curbing money laundering. Shortage of accountants in Ghana is a challenge that needs to be resolved. This call is made on the basis that agencies that account to FIC are unable to meet anti-money laundering standards. In some instances, financial books can be tempered with when money laundering is involved. However, Ghana has recognised weaknesses in relation to shortage of personnel to combat money laundering. In attempts to keep and attract competent personnel to serve in anti-money laundering agencies, initiatives like

postgraduate studies have been funded and personnel with postgraduate qualifications have been employed to increase research personnel (Vaithilingam and Nair, 2008). Funding of postgraduate studies are initiatives that are likely to see anti money laundering agencies like FIC, and GPS having competent personnel. Training and remuneration of accountants are issues that need to be attended in order to ensure that entities that account to FIC are able to meet anti-money laundering standards.

#### **4.2.5.2. Infrastructure and working conditions**

The state of infrastructure and working conditions for agencies dealing with money laundering in Ghana is appalling. Anti-money laundering agencies in Ghana face challenges such as limited information technology devices and clearly defined office premises for employees (Essel, 2012). Low internet availability in Ghana is a prevalent challenge which affects the ability of law enforcement agencies to detect money laundering activities (Vaithilingam and Nair, 2008). For FIC, information technology systems had not been operating since its establishment in 2010 but started working only in 2012 (Essel, 2012). A similar challenge has also prevailed for GPS where scarce technology devices have limited the ability of the officials to efficiently detect and investigate money laundering practices (Bury, 2011). Where facilities have been present they have been present in certain branches of the GPS (GPS, 2010).

Challenges of infrastructure in curbing money laundering in Ghana have only been attended to since 2008. In the period from 2001 GPS had not been presented with favourable conditions to curb money laundering due to lack of infrastructure, conducive working conditions to curb money laundering were only improved from 2008. For FIC, the conditions have been appalling between

2001 and 2011. There had been no infrastructure to facilitate curbing of money laundering by FIC. As an emerging economy in West Africa, Ghana needs to ensure provision of infrastructure to provide favourable conditions to fight money laundering.

#### **4.2.5.3. Accountability**

Accountability on money laundering has been maintained through FIC accounting to various international and regional actors, while GPS' accountability mechanisms are internal and external.

FIC is accountable to regional and international actors like GIABA, FATF and the United Nations. As a regional anti-money laundering arm in West Africa, GIABA evaluates the progress of each country in meeting anti money laundering mechanisms as recommended by FATF (GIABA, 2009). Moreover, FATF ensures that anti-money laundering mechanisms are set and assist regional organs like GIABA in evaluating compliance of each country in meeting recommendations to curb money laundering (GIABA, 2013). In most cases, member states failing to comply with FATF anti-money laundering mechanisms are placed on a list of blacklisted countries, this has been the case with Ghana up until it was able to comply (GIABA, 2013b).

There are no separate accountability mechanisms used by GPS pertaining to money laundering. Accountability of GPS is through internal mechanisms which are maintained by PIPS. The PIPS receives information concerning misconduct of police officials and makes follow up investigations (GPS, 2013d). External accountability mechanisms are also in place to ensure that GPS officials are kept in check concerning money laundering. The FIC as the central agency in combating money laundering is one of the external bodies that ensure accountability of GPS. Where GPS officials or



officials from any institution misuse information pertaining to investigation of money laundering cases, the FIC will ensure that such an official pays a fine of 254 US Dollars or serve jail term of not more than three years (FIC, 2008). Where the police official is involved in money laundering, the GPS will investigate such a case and such an official will be subjected to a fine or a prison term of not more than 10 years. It must be noted that before an official is investigated, the FIC will be the first entity to establish whether such an official is involved in money laundering. Other external controls to ensure accountability of GPS in relation to money laundering are statutory government organs (Commonwealth Human Rights Initiative, 2007). Independent entities like civil society and media also keep the GPS officials in check (Commonwealth Human Rights Initiative, 2007).

Accountability of FIC to international and regional bodies has been working in curbing money laundering in Ghana. This is based on the evaluation of Ghana in terms of progress in relation to the adoption of anti-money laundering mechanisms by GIABA and FATF which led to Ghana being listed as one of the blacklisted countries by FATF (GIABA, 2013b). After Ghana had been blacklisted due to not meeting stipulations to curb money laundering, the FIC was set up and ensured that anti-money laundering mechanisms were put in place. This saw Ghana exiting the list of countries blacklisted by FATF (GIABA, 2013b). The fact that FIC only started operating in 2012 in Ghana means that GPS and other accountable entities have not been accounting to FIC as expected (Essel, 2012). The absence of FIC means that accounting entities have conducted business in their terms, a possibility of engaging in money laundering has been utilized at times. A number of mechanisms have been laid out to ensure accountability but a lot still needs to be done to guarantee that these structures are actually working.

#### **4.2.6. Technical capacity on money laundering**

##### **4.2.6.1. Technical skills and strategic institutions**

FIC is an important agency as far as the technical capacity element is concerned in Ghana. FIC enhances technical capacity in Ghana through providing training and information to accounting institutions (Essel, 2012). FIC also ensures that well-informed decisions are made in relation to the formulation and implementation of anti-money laundering statutes (FIC, 2013). Moreover, FIC also bolsters the technical capacity of GPS through provision of information in relation to transactions that are suspected to involve money laundering activities (FIC, 2013). The technical capacity of GPS to curb money laundering in Ghana is also reliant on RPICT that is within GPS (Daily Graphic, 2012). The RPICT carries out research on all forms of crimes, for money laundering this is achieved through carrying out research on money laundering trends which assist in implementing anti-money laundering mechanisms that are effective (Daily Graphic, 2012). The RPICT also attends to issues of shortage of information technology devices that are affecting communication of GPS with other anti-money laundering bodies (Daily Graphic, 2012).

Technical capacity in curbing money laundering in Ghana has experienced difficulties. Amongst these challenges has been non-existence of FIC from 2001 till 2011 which has meant that GPS has not been receiving any assistance in the crackdown of money laundering in Ghana. Statistics on money laundering trends in Ghana are hardly available for the period 2001 to 2011. If present, they can be found from international or regional and are not as detailed as they should be. Rivalry and distrust between anti-money laundering institutions has also inhibited sharing of skills and information aimed at facilitating curbing of money laundering in Ghana (Essel, 2012). The RPICT has been the only entity that has enhanced the technical capacity of the GPS by ensuring the availability of resources to facilitate the fight against money laundering in Ghana (GPS, 2010). It

appears that a lot still needs to be done to improve Ghana's technical capacity to curb money laundering.

#### **4.2.7. Extractive capacity on money laundering**

##### **4.2.7.1. Funds**

As a developing country, Ghana has shown healthy economic development based on GNI that has shown significance improvement from 300 US dollars per capita in 2001 to 1,410 US dollars per capita in 2011 (World Bank, 2012). However, economic development has not been assisting Ghana in curbing money laundering. Based on the analysis, economic development has been noted while money laundering proceeds have also been increasing in Ghana as the size of illicit economy increased from 513 US million dollars in 2001 to a staggering two billion US dollars in 2011 (Kar and Freitas, 2012). A number of capacity elements have cited inadequacy of extractive capacity element, for instance shortage of well qualified personnel, and infrastructure is blamed on limited budget (World Bank, 2004).

It is clear that extractive capacity in relation to dealing with money laundering is a weak capacity that inhibits the functionality of other capacities. The fact that the growth of illicit economy in Ghana corresponds with the growth of the licit economy means that a lot still needs to be done. This is on the basis that this trend is likely to increase and sustain money laundering activities in Ghana as the economy grows.

### **4.3. State capacity on money laundering in South Africa**

#### **4.3.1. Actors**

Money laundering actors in South Africa are not different from those operating in Ghana. Actors participating in South Africa's money laundering operations are mainly criminals involved in a number of illicit activities. Included in the list are: rich business owners, politicians and officials serving in government and financial services institutions (Mthembu-Salter, 2006). The criminal actors involved in South Africa's money laundering activities are often foreign nationals and they are the main role players usually not subjected to law enforcement (Hubschle, 2011). South Africans should not be excluded from the list of actors involved in money laundering activities as there have been instances where they pursue laundering of proceeds from illicit activities on behalf of major international terrorist groups (Hubschle, 2006). South African financial services institutions are also indirectly main actors in money laundering as they are the vehicles of money laundering, in most cases they are not aware of this as actors involved in this activity are secretive (Goga, 2012). Foreign financial institutions outside South Africa also play a significant role in the laundering of proceeds. In some instances these institutions are aware that they are involved in this activity (Mazars Forensic Services (Pty) Ltd, 2011). In terms of relationships that are forged amongst actors involved in money laundering, associations are usually temporal or for prolonged periods of time (Hubschle, 2011).

#### **4.3.2. Interests and Incentives of actors**

For all the actors involved in money laundering activities in South Africa, the interests and incentives revolve around money in the same way as other actors involved in a similar activity in Ghana and other countries. Expanding illicit activities is the main interest of economic criminal

groups involved in activities of money laundering in South Africa. This is achieved through recruiting of individuals willing to pursue illicit activities (Legget, 2002). This has been evidenced by an increasing number of drug mules from South Africa who are promised huge sums of money to traffic drugs in regions like Asia (SAPA, 2012b). Moreover, politicians and wealthy entrepreneurs involved in money laundering operations in South Africa use laundered illicit proceeds to boost their economic status in the form of expensive commodities like real estate property and cars (Mthembu-Salter, 2006). Besides expensive assets ownership, many economical criminal groups involved in a number of crimes establish enterprises or invest in already established corporations (Mazars Forensic Services (Pty) Ltd, 2011). For business owners involved in money laundering or those assisting, the process ensures success of the business financially, as laundered money is invested to expand the business at times (Mazars Forensic Services (Pty) Ltd, 2011).

#### **4.3.3. Resources of actors and the impact of their operations**

Actors involved in South African money laundering activities use laundered money as a catalyst of other illicit operations. It is a similar trend as in Ghana and other countries where the actors use illicit proceeds as their resource to expand money laundering. Business enterprises are the popular means used for money laundering in South Africa which are set up using money from illicit activities (Mazars Forensic Services (Pty) Ltd, 2011). That is why when someone is charged with money laundering his or her movable assets are confiscated by the state. Businesses like real estate property, casinos, bars, and other small orientated enterprises are important avenues of laundering money from criminal activities (Mthembu-Salter, 2006; Mazars Forensic Services (Pty) Ltd, 2011). The manner in which these enterprises are used as tools for money laundering is not as complicated as one would think. The first category involves the creation of a false non-existing company that receives illicit proceeds that are dubbed service payments (Mthembu-Salter, 2006). The second

instance encompasses proceeds being invested in already existing corporations to make income appear to have originated from legal activities (Mthembu-Salter, 2006). The third money laundering activity is through businesses and occurs through purchasing of real property estate using illicit proceeds, and later resold to recover laundered proceeds as legal money (Mthembu-Salter, 2006). Financial institutions are also entities utilized by criminal groups to launder money from illegal dealings. Without bribing bank officials, criminal groups are able to lure banks into money laundering by depositing smaller amounts of money from illegal activities in different accounts of a single bank or different banks (Mazars Forensic Services (Pty) Ltd, 2011). Moreover, laundered money as a resource is also able to give access to foreign financial institutions. This therefore enables proceeds to be deposited to foreign banks (Mazars Forensic Services (Pty) Ltd, 2011).

The impact of money laundering operations in South Africa is negative. Money laundering activities make South Africa a service state to stage criminal operations through the utilization of financial institutions. Money laundering has increased the size of illicit economy within South Africa, with the increase in illicit economy, levels of corruption have increasingly made it difficult for investors to consider investing in the country (Transparency International, 2011). Money laundering also creates the misapprehension on the youth that crime pays, thus influencing the unemployed youth to be involved in illicit activities for easy money (Mazars Forensic Services (Pty) Ltd, 2011). Crime proceeds have also made criminals powerful to such an extent that they rival the strength of the state as some areas become no go areas for the police (Desai, 2004). The South African real estate property has been put to disarray due to increasing prices of the properties, the contributing factor being the fact that a large portion of illicit proceeds are invested in this sector (Mthembu-Salter, 2006).

#### **4.3.4. Regulatory capacity on money laundering**

##### **4.3.4.1. Rule of law**

In the same way as Ghana, South Africa is a signatory to a number of United Nations anti-money laundering conventions. Amongst these conventions are: the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Convention against Transnational Organized Crime of 2000 as well as the 2004 Convention against Corruption. At the Continental and regional levels, South Africa was amongst countries that adopted the Action Plan for the Prevention and Combating of Terrorism in Africa.

At regional level, South Africa is a member of the ESAAMLG which ensures cooperation and assistance in dealing with money laundering. The ESAAMLG ensures that its members adopt mechanisms that adhere to recommendations of the FATF in dealing with money laundering (FATF, 2013). The ESAAMLG calls for anti-money laundering mechanisms that are lasting and systemic in their approach to such an extent that they must also deal with the issue of terrorism financing (Goredema, 2009). The ESAAMLG does not only call for mechanisms in terms of statutes but calls for the creation of financial intelligence units that will ensure the existence of anti-money laundering mechanisms and speed up law enforcement (FIC-South Africa, 2005). ESAAMLG achieves cooperation amongst member states through consideration of regional issues before adopting mechanisms to tackle money laundering (FATF, 2013).

In terms of legislation, a number of Acts have been formulated to tackle money laundering in South Africa. Acts currently governing money laundering and related offences can be divided into three categories, namely: laws generally tackling money laundering, laws that are extraterritorial, as well

as laws governing institutions in relation to money laundering. The Drugs and Drug Trafficking Act of 1992 as well as the Prevention of Organized Crime Act of 1998 are the central general laws in the criminalisation of money in South Africa. The second category comprises statutes governing institutions on money laundering are the Banks Act of 1990 and the 2001 Financial Intelligence Centre Act. Finally, Acts that are extra-territorial in curbing money laundering are: the International Co-operation in Criminal Matters Act of 1996 and the 2004 Prevention and Combating of Corrupt Activities Act. It must be understood that extra-territorial statutes and statutes governing institutions in relation to money laundering complement the main laws that are dealing with money laundering in South Africa.

The pieces of legislations that seek to curb money laundering in South Africa have been in existence since 1992. The Drugs and Drug Trafficking Act No 140 of 1992 was the first Act formulated to criminalise laundering of drug proceeds. The Prevention of Organized Crime Act of 1998 is a recent Act to specifically address money laundering. The 1998 Act was formulated to expand the scope of money laundering so as to criminalise laundering of proceeds emanating from other illicit activities. The Prevention of Organized Crime Act was formulated to also address the issue of laundered proceeds financing activities of terrorism. As the Prevention of Organized Crime Act deals specifically with money laundering in South Africa, the Act formulated instruments or methods to be used to deal with money laundering and related activities. The Prevention of Organized Crime Act describes money laundering as to involve proceeds emanating from all illicit activities. Moreover, the act also stipulates that a person convicted of money laundering can be fined a maximum of 109,561 US dollars or be subjected to life imprisonment.



The second category of Acts which govern institutions in curbing money laundering in South Africa are mainly concerned about how money laundering can be prevented. These acts also outline procedures to be taken in cases of money laundering as well as the formation of a centre to speed up law enforcement against money laundering. The Banks Act 94 of 1990 establishes monitoring of public companies accepting deposits from the public. Moreover, the Banks Act also calls for the adoption of suitable mechanisms monitoring and supervising banking standards and practises.

The second Act within category of laws governing institutions in curbing money laundering is the Financial Intelligence Centre Act 38 of 2001. The Financial Intelligence Centre Act establishes the FIC and the Money Laundering Advisory Council to deal effectively with money laundering. According to the Act 38 of 2001, the role of FIC is to collect information on money laundering and make such information available to relevant authorities. The 2001 Act also stipulates that FIC may also terminate any transaction that is suspected to be money laundering. The Money Laundering Advisory Council that was formulated by the Financial Intelligence Centre Act is mainly tasked with providing advice in the formulation and implementation of anti-money laundering policies. The Financial Intelligence Centre Act also requests all institutions accountable to FIC to report money laundering activities and assist FIC in facilitating investigation of money laundering practices. Failure to assist FIC in investigating suspected money laundering activities is a punishable offence that carries a prison term of 15 years or a one million US dollars fine according to the Act.

The International Co-operation in Criminal Matters Act 75 of 1996 is the first extraterritorial anti-money laundering legislation. The International Co-operation in Criminal Matters Act stipulates that South Africa may call for help from foreign countries in impounding and transferring crime

proceeds. The second extraterritorial Act is the Prevention and Combating of Corrupt Activities Act 12 of 2004, the Act calls for investigation where property or transaction is alleged to have emanated from illicit activities. The Prevention and Combating Corrupt Activities Act is enforceable even outside South Africa.

Rule of law in terms of preventing and detecting crimes including money laundering is mandated to the SAPS in South Africa. However, on money laundering the SAPS does not work in isolation but has to work with other organs of the state. The FIC, which came into existence in 2002 in South Africa works closely with the SAPS in curbing money laundering. The FIC obliges all accountable entities to formulate anti-money laundering mechanisms that are consistent with the FATF and also establishes whether anti-money laundering statutes are being adhered to (FIC, 2013). Other organs of the state that assist SAPS in ensuring the rule of law in preventing money laundering are: South African Revenue Service (SARS), intelligence agencies, and the South African Reserve Bank.

In order to ensure the rule of law where money laundering has occurred the SAPS works in cooperation with Asset Forfeiture Unit (AFU) and FIC. Where the FIC suspects money laundering, information is given to the SAPS for further investigation, this investigation is therefore carried out by a selected set of money laundering specialists (SAPS, 2013). Investigation can be dual depending on circumstances of the case. SAPS may work in cooperation with AFU which seeks to forfeit assets obtained through illicit proceeds, or which form part of illicit proceeds (Goredema, 2006). When found guilty the offender is dealt with in accordance with the Prevention of Organized Crime Act of 1998.

There are a number of issues that have indicated that South Africa's regulatory capacity is not fully functional as desired in relation to curbing money laundering. Law enforcement has been troubled as there has been confusion as to whether money laundering falls within the ambit of SAPS or the now defunct Scorpion Unit (De koker, 2007). This has however been cleared out through establishment of the Hawks Unit serving under the SAPS (De koker, 2007). Issues in law enforcement have clearly caused an upsurge of money laundering. This is based on large sums of illicit wealth that have been entering and leaving South Africa. Statistically illicit proceeds in the period from 2001 to 2010 totalled 84 US billion dollars thus making South Africa to be ranked 11 out of the 20 developing countries based on size of illicit flows (Kar and Freitas, 2012). There has been a notable increase of illicit wealth flow in South Africa as it increased from 485 million US dollars in 2001 to seven US billion dollars in 2011 (Kar and Freitas, 2012). These figures indicate that money laundering has penetrated South Africa and confirm that a lot needs to be done to bolster the regulatory capacity of the state to combat money laundering.

It must be highlighted though that South African law on money laundering is amongst the tough laws found elsewhere as being found guilty of money laundering can subject the offender to life imprisonment. Moreover, where accountable officials refuse to assist in the investigating money laundering, they can be subjected to a 15 year term in prison. The existence of statutes guiding institutions on how to conduct business in preventing and dealing with money laundering is an important aspect in promoting cooperation in curbing money laundering operations in South Africa. The existence of anti-money laundering laws enforceable beyond South African borders is a feature to be applauded as it acknowledges the fact that money laundering operations are transnational in character.

### **4.3.5. Administrative capacity on money laundering**

#### **4.3.5.1. Personnel**

The issue of scarce skills is a prevalent problem for anti-money laundering institutions like SAPS and FIC in South Africa. Amongst scarce skills are: auditing, forensic and investigation, and compliance risk analysis (SARS, 2012). FIC in its establishment in 2003 only had 20 employees which however increased to 150 in 2010 (FIC, 2010). On the other hand, the now non-operational Scorpion Unit, when it came into operation it was able to recruit highly qualified and experienced personnel like forensic accountants, special investigators, and prosecutors (Basel Institute on Governance, 2007). Although the Scorpion Unit was attracting qualified personnel it was unable to retain its well trained and experienced staff since 2001 as it recorded a vacancy rate of about 51.8 per cent from 2003 to 2008. Moreover, as the Scorpions were disbanded in 2008 it became a challenge to ensure smooth transition of staff to the new anti-money laundering unit under the SAPS (NPA, 2009).

Where personnel is available, there has been a trend in which well trained and experienced staff serving in South African anti-money laundering bodies has been taken by the South African business community (De koker, 2007). Most personnel leaving anti-money laundering bodies go to serve in forensic departments to protect enterprises from being subjected to money laundering amongst other things (De koker, 2007).

In retaining and attracting new personnel, anti-money laundering bodies have taken a number of steps. The SAPS has put in place a number of plans to address the issue of shortage of personnel with skills to facilitate curbing money laundering. The use of retention means to keep skilled

personnel from leaving the agency has been through the introduction of training courses to advance already existing skills (SAPS, 2010). Priority has also been shifted from recruiting huge volumes of personnel to recruiting limited personnel with required expertise (SAPS, 2010). FIC as an important entity to the SAPS has been granting bursaries to promote studying of fields like financial analysis and management (FIC, 2010). The success of these programmes has proved to be effective by the increasing numbers of staff which have been increasing since 2001 to 2011 (FIC, 2010). A number of training programmes were created to improve skills on employees that were serving in the now defunct Scorpion Unit, which saw the unit playing an important role in reducing money laundering (NPA, 2009).

Shortage of personnel coupled with transition from one agency to another is a common trend. But when this trend occurs in crucial organs of the state as those tasked with curbing money laundering a lot of things can go wrong. This has been the case which has seen the state being incapacitated due to the shortage of personnel. The Private sector in a sense has incapacitated administrative capacities of agencies like FIC thereby making it difficult if not impossible to deal with money laundering. However the introduction of new plans to address the issue of shortage of personnel is likely to yield positive results which will ensure prevention, detection and investigation of money laundering operations.

#### **4.3.5.2. Infrastructure and working conditions**

The SAPS and other Bodies tasked with curbing money laundering and related crimes have been faced by numerous challenges constraining their administrative capacity in terms of infrastructure. A number of developments have been noted in attempts to improve their administrative capacities

to deal with money laundering. Amongst these challenges has been inadequate resources coupled with secrecy culture in the banking sector limiting the ability of agencies to investigate cases of money laundering (Goredema, 2007). Secondly, shortage of resources has also limited the ability of sharing information which could be helpful in the curbing of money laundering (Goredema, 2007). Inadequate resources have also limited the investigation of suspicious transfers leading to the standstill and delays of investigations on certain money laundering cases (Goredema, 2007).

In as much as there has been a weakness in dealing with money laundering on state organs there has been instances where state institutions have shown progress in dealing with the issue. FIC for an example has been able to make partnerships with similar agencies from other countries in relation to the sharing of information relating to money laundering activities (FIC, 2010).

Conflicts which deteriorated to halted strategic sharing of information between Scorpion Unit and SAPS interfered with administrative capacity of these agencies to deal with cases of money laundering (De koker, 2007). The Scorpion Unit lost its credibility when its actions were interpreted as bias where investigations were only on certain high profile politicians and entrepreneurs (De koker, 2007). Moreover, lack of regulation in some institutions and economic sectors such as the informal sector and money transfer entities has created a vacuum (Goredema, 2006). Transfer entities which are available are exploited by criminal groups involved in money laundering schemes as they are not strictly regulated (Goredema, 2006). Agencies dealing with the issue are therefore unable to access information on financial transactions made within the money transfer sector which inhibits prevention and curbing of money laundering (Goredema, 2006).

Alleged incidents of state officials working in collaboration with other actors in the commission of money laundering and related crimes has played a role in the ability of state agencies to be effective in preventing illicit activities through strategic sharing of information (Goredema, 2006). The reported incident in 2006 where South African and Zimbabwean immigration officers were caught trying to smuggle cigarettes is an example of state officials facilitating illicit activities (Goredema, 2006). However, the merger of the Scorpion Unit with SAPS into Hawks has centralised investigation powers on illicit activities like money laundering as it has ensured functionality as access to information and decision making has been centralised (Bruce, 2008).

#### **4.3.5.3. Accountability**

FIC as an important anti-money laundering arm in South Africa accounts to a number of international as well as regional actors to which it is a member. Amongst them are: United Nations, FATF and ESAAMLG. The FATF together with ESAAMLG evaluates progress of each country in terms of how far the country is in conforming to recommended FATF anti-money laundering mechanisms (FATF, 2013). The United Nations Convention against Transnational Organized Crime of 2000 as well as the United Nations 2004 Convention against Corruption are conventions central in ensuring accountability in relation to money laundering. The conventions ensure that each country shapes anti-money laundering mechanisms in accordance with the acceptable international standards.

Accountability in other anti-money laundering entities has been a problematic issue in dealing with money laundering in South Africa. For example, the Scorpion Unit's disbandment in 2008 was

based on the reason that it did not have enough accountability mechanisms, which interfered with the progress of investigations that were being attended by the Unit (Bruce, 2008).

The SAPS's accountability has been maintained through internal and external controls as it is central in dealing with money laundering in South Africa. The ICD now known as the IPID keeps police officials in check through observing and monitoring their conduct and performance (Davies et al, 2003). External controls are the CPF which urges community members to report misconduct of the police officials to proper channels (Gordon, 2001). In case where misconduct of police official involves participation in money laundering the IPID will receive assistance from FIC through provision of information facilitating investigation (FIC, 2012). Should an official be convicted, a fine of about 100 thousand US dollars will have to be paid or such official will be required to serve life imprisonment as stipulated by the Prevention of Organized Crime Act of 1998. Furthermore, where an official from any organ of the state interferes with an investigation by refusing to provide information to FIC on money laundering, such an official if found guilty will be fined around one million US dollars or serve a prison term of 15 years.

The pitfall on the use of some accountability mechanisms such as CPF in relation to money laundering is the secrecy culture of the activity as well as lack of knowledge on the public about money laundering (Gordon, 2001). Although the IPID has carried out outreach programs to educate the public on reporting misconduct of the police, the problem has been lack of education on financial crimes like money laundering. The fact remains that a lot needs to be done to strengthen external mechanisms of accountability within anti-money laundering bodies like SAPS. FIC on the other hand has been a success as it has been accounting to regional and international bodies leading



to South Africa being declared a compliant country with FATF recommended anti-money laundering mechanisms.

#### **4.3.6. Technical capacity on money laundering**

##### **4.3.6.1. Technical skills and strategic institutions**

FIC as the central body dealing with money laundering has strengthened the technical capacity of South Africa as it supplies and shares information with most agencies curbing money laundering (Goredema, 2007). Moreover, the FIC has also proved to be an effective agency as far as the technical capacity of the state on money laundering is concerned (FIC, 2011). It has been able to compile statistics in relation to money laundering and related crimes which has been achieved through introduction of new ways of reporting money laundering cases (FIC, 2011). The new ways of reporting cases of money laundering increased reports of money laundering incidents by 25 per cent in 2010 to 2011 (FIC, 2011). Reported suspected money laundering transactions totalled seven US billion dollars in 2010 to 2011 (FIC, 2011). Thirdly, FIC was able to establish links between money laundering and crime in 43 cases leading to the freezing of bank accounts valued at about 14 US million dollars (FIC, 2011). Lastly, FIC improved its involvement in foreign matters of money laundering by 16 per cent in 2010 to 2011 (FIC, 2011).

The divisions within FIC like Monitoring and Analysis have enabled the agency to make well informed decisions in terms of curbing money laundering. The Monitoring and Analysis division within FIC which deals with collection and analysis of data on money laundering has ensured that SAPS is successful in investigations concerning money laundering (FIC, 2005). Compliance and Prevention is the second division which conducts inspection on institutions regarding compliance

and provides awareness on issues of money laundering. The Compliance and Prevention has assisted entities accounting to FIC as it recommended anti-money laundering mechanisms to be adopted (FIC, 2012). The Strategic Research and Legislation Development, which is a unit within FIC that conducts research on money laundering trends and legislation development on money laundering, is an important strategic division strengthening technical capacity (FIC, 2012).

The Scorpion Unit since its formation in 2001 was able to bolster the technical capacity of the state in relation to money laundering as it was able to compute statistics regarding its performance and information on money laundering trends (NPA, 2009). From 2004 the conviction rate of money laundering cases was 88 per cent improving to 98 per cent in 2009 (NPA, 2009). AFU, from 2003 to 2008, was able to measure its performance through compiling statistics which has strengthened the state's technical capacity in combating money laundering. The performance of AFU has been improving in dealing with money laundering and related crimes, as in 2004 its completed forfeiture cases increased from 151 to 277 in 2009 (NPA, 2009).

In terms of strategic capacity a lot still needs to be done on the part of the auditors in South Africa as some are not informed with relevant law in relation to steps that need to be taken in case of money laundering practices being detected (Standing and Van Vureen, 2003). Moreover in some instances the inability of the state to receive clean audits from its agencies is a result of lack of required skills and knowledge on the part of the auditors (Sapa, 2012). However, the newly formed SAPS Organized Crime Unit has been a successful agency in relation to state's technical capacity in combating money laundering. It generated statistics in terms of detection rate of commercial crimes that increased from 36, 5 % in 2009 to 2010 to 68, 4 % in 2010 to 2011 with dockets of about 25.5 % of commercial crimes being case ready (SAPS, 2011). Secondly, the SAPS led to the

freezing of assets valued at 64 US million dollars that involved 179 suspects (Kinnes and Newham, 2012: 34). FIC through Monitoring and Analysis, and AFU have been performing well as far as technical capacity in curbing money laundering is concerned.

#### **4.3.7. Extractive capacity on money laundering**

##### **4.3.7.1. Funds**

South Africa remains one of the most advanced developing economies in Africa. The economy has been developing since 2001. According to economic indicators, South Africa recorded GNI previously GNP of 2, 830 US Dollars per capita in 2001 increasing to 6, 960 US Dollars per capita in 2011 (World Bank, 2012). The growth of the South African economy has however paralleled with an increase in the size of illicit economy as the size of illicit economy was recorded at 485 thousand US dollars in 2001 increasing to seven million US dollars in 2011 (Kar and Freitas, 2012). As much as South Africa has a developing economy, other capacity elements in relation to curbing money laundering have not been able to function properly. Issues like scarce skills and lack of infrastructure due to shortage of funds leave much to be desired.

In the same way as Ghana, South Africa's trend of economic growth being matched by growth of the size of illicit economy is a very dangerous trend. This is on the basis that illicit economy prolongs money laundering activities as it ensures that actors involved in money laundering are always well resourced making it difficult for law enforcement to deal with the problem. There is therefore a need to ensure that South Africa's economic strength translates to its strength in dealing with money laundering through proper allocation and management of funds.

#### **4.4. Conclusion**

To conclude, this chapter has profiled state capacity in relation to money laundering in Ghana and South Africa. The state capacity elements that were relied upon and evaluated were: regulatory, administrative, technical, and extractive capacities.

From the outset, there is a clear penetration of the states in question by money laundering operations. This is shown by the situational analysis of both countries, where laundering is done through state institutions, and laundered money is used to expand money laundering and other illicit activities.

In profiling state capacity in relation to money laundering in Ghana and South Africa, these are the issues that emerged when elements of state capacity were looked at:

##### **Regulatory capacity**

Rule of law: Both Ghana and South Africa are committed to a number of international and regional anti-money laundering bodies. Both Ghana and South Africa are signatories to: The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 2000 United Nations Convention against Transnational Organized Crime, as well as the 2004 United Nations Convention against Corruption. At regional level both countries agreed to the adoption of the AU's Plan of Action for the Prevention and Combating of Terrorism in Africa. Moreover, Ghana is a member of GIABA an anti-money laundering group for countries in West Africa. On the

other hand South Africa is a member state of ESAAMLG, an anti-money laundering entity for countries in Southern and Eastern Africa.

In responding to the above mentioned commitments Ghana and South Africa have formulated and implemented a number of pieces of legislations addressing money laundering. In Ghana, the Narcotic Drug Enforcement and Sanctions Law of 1990 and the Anti-Money Laundering Act 749 of 2008, are Acts in place to curb money laundering. For South Africa, the Drugs and Drug Trafficking Act of 1992 as well as the Prevention of Organized Crime Act of 1998 are the main anti-money laundering Acts complemented by other Acts. In Ghana the GPS supported by FIC are the central agencies in ensuring the rule of law against money laundering, while in South Africa the SAPS is also assisted by FIC on law enforcement to curb money laundering. What needs to be noted here is that Ghana has not been compliant to FATF recommended anti money laundering mechanisms in the period from 2001 to 2011. Although South Africa has been FATF compliant, the issue of distrust amongst law enforcement agencies leading to lack of cooperation in curbing money laundering has been problematic.

### **Administrative capacity**

The main or key issues which were looked at here were: Personnel, Infrastructure and working conditions, as well as accountability. In relation to personnel, both Ghana and South Africa have been subjected to a problem of not having enough qualified personnel for agencies curbing money laundering. There has been an attempt however by both countries to keep, recruit and train personnel. Pertaining to infrastructure, lack of infrastructure especially for Ghana, has been a problem for FIC but the situation is improving. Concerning accountability, both countries have

well-functioning methods of accountability to ensure accountability of anti-money laundering bodies, although there have been issues with some of the mechanisms in both countries.

### **Technical capacity**

It has emerged that although anti-money laundering bodies in Ghana and South Africa have been challenged but mechanisms to improve the situation have long been put in place. Amongst the remedies, are mechanisms aimed at capacitating personnel with required skills to reduce the scourge of money laundering. What needs to be noted as failures here are: Ghana's lack of the ability to compute statistics on money laundering up until 2010. While for South Africa, conflicts amongst law enforcement agencies have halted sharing of crucial information and equipment to deal with money laundering.

### **Extractive capacity**

This is the capacity that requires urgent attention as far as money laundering is concerned. This is on basis that economic strength of Ghana and South Africa has not translated to better strength in curbing money laundering. Instead money laundering has increased with economic growth in both countries. Other capacities have also been weak due to this capacity, such as shortage of skills, tools and lower salaries due to shortage of funds.

### **Overall concluding remarks**

It is clear that a lot still needs to be done by both countries to curb money laundering operations as all capacities, especially technical, are not well functioning.

The next chapter, chapter five, summarises the findings, lessons and their implications for the two countries used as case studies in this dissertation. It also provides recommendations to curb drug trafficking and money laundering in Ghana and South Africa as a way forward.

## **Chapter Five: Summary, Recommendations and Conclusion**

### **5.1. Summary**

This dissertation has looked at Transnational Organized Crimes (TOCs) in Africa with specific emphasis on drug trafficking and money laundering in Ghana and South Africa. Drawing from reviewed literature on the subject, global and regional issues have played an important role in the occurrence of TOCs in Ghana and South Africa. Concerning Ghana in relation to global factors, the neoliberal view and global events have been central in the manifestation of TOCs. For South Africa, the process of globalisation has played an important role in this regard.

Pertaining to regional issues in the exposure to TOCs, for Ghana poverty and inequality as well as governance have been cited as fundamental factors. On the other hand, capacity and resources have been linked to the incidents of TOCs in South Africa. Looking at the case studies of the countries in question, in Ghana, geographical and socio-economic issues, nature and characteristics of actors, and law enforcement have played an important role in TOCs. For South Africa, the transition period, nature and characteristics of actors, corruption and state capacity have played a pivotal role. The aim of this chapter is to provide: summary of the findings, recommendations derived from the preceding discussion by highlighting lessons learned and finally draw conclusions on the subject in question.



### **5.1.1. Global Overview on TOCs**

A general global overview on the evolution of TOCs has established that there are two types of groups involved in TOCs, namely, traditional networks as well as modern networks. The structural arrangement of these networks is what makes them differ. The effects of their illicit activities also differ, which, to some extent, causes law enforcement to deal with these networks differently. Concerning typologies of TOCs, conditions that lead to their development or the effects they have on the society are: predatory, parasitic, and symbiotic. Globally there are five prominent TOCs, namely: drug trafficking, human trafficking, smuggling of migrants, trafficking in natural resources, and trading in fraudulent medicines.

As far as the history and evolution of TOCs is concerned there are three periods that are crucial, namely: early years, expansion years, and the notable years. During the early years of TOCs from the 1400s to the 1900s, TOCs manifested through piracy and banditry in the midst of state formation, states and criminal groups protecting each other. As the years progressed, the expansion years of TOCs from 1910 to the late 1980s were marked by a shift from banditry and piracy. Political power was central in the manifestation of TOCs during the expansion years. This was signalled by revolutions, wars and other forms of political transformations. The final period in the evolution of TOCs is the notable years from the 1990s to the early 2000s. During this era the cold war led to a number of defects, there was also a strategic merger amongst TOCs like drug trafficking and terrorism.

### **5.1.2. Ghana on Drug Trafficking and State Capacity**

The situation of drug trafficking in Ghana involves economic transnational criminal groups and religious groups being at the forefront of trafficking cocaine, heroin, and marijuana through agents coming from all walks of life. The consumers of drugs in Ghana are mostly for marijuana while the market for cocaine and heroin is growing. The interests of actors involved in drug trafficking differ as for others they are economical while interests for others are political. Drug trafficking has led to a number of problems in Ghana amongst them being: addiction, violence, and expansion of other illicit activities. Ghana has become a home state of drug traffickers, a host state of drug market and a transshipment state of drugs transported to other countries, especially across Africa.

In relation to the regulatory capacity element on drug trafficking, Ghana has shown commitment in dealing with the problem through being signatory to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Moreover, Ghana is also a member state of AU and ECOWAS which have made a number of commitments in dealing with drug trafficking. In conforming to international standards Ghana enacted the Narcotic Drug Enforcement and Sanctions Law of 1990. Statistically, the rule of law on drug trafficking in Ghana has been fairly functional. Pertaining to the administrative capacity element on drug trafficking, the GPS which is the central agency on law enforcement has put in place a number of systems to recruit and keep competent talent. However, the number of personnel has remained inadequate in accordance with the UN's stipulated police officer citizen ratio, but in the period from 2001 to 2011 progress has been made in rectifying the situation.

The shortage of resources for the GPS has been a weakness of the administrative capacity in curbing drug trafficking. Strengthening administrative capacity has been through internal and external accountability mechanisms for GPS officials. The increasing perception that GPS in the period from 2001 to 2011 is the most corrupt agency remains a problem. Technical capacity on drug trafficking in Ghana has recorded a number of failures, with: technological devices being scarce and personnel having inadequate skills. The strategic capacity of the GPS only came into being in 2006 in the form of: First National Policing Plan 2006 to 2009, the formation of PIPS in 2006, Second National Policing Plan 2010 to 2014, as well as the RPICT. Finally, Ghana's extractive capacity on drug trafficking has shown symptoms of failure in the years from 2001 to 2011. The problem has been the economy developing but less budget being allocated in developing infrastructure to deal with drug trafficking.

### **5.1.3. South Africa on Drug Trafficking and State Capacity**

The state of affairs on drug trafficking in South Africa is not that different from that of Ghana. In South Africa, actors involved in drug trafficking are local and foreign economical criminal groups. Some actors are involved in the cultivation, processing, smuggling, and consumption of different drugs. Marijuana is consumed by both local and foreign nationals, while cocaine and mandrax and cocaine are drugs used by South Africans. Unlike in Ghana, the interests of actors involved in drug trafficking in South Africa are monetary gain. Land, laboratories, and transport systems are amongst resources utilized by drug traffickers using illicit proceeds. The implications of these operations are dire as they lead to corruption, addiction and increasing drug related crimes, South Africa has also invariably become home, host, and transshipment state of drug trafficking.

In terms of the four capacity elements of the state on drug trafficking in South Africa these are the issues: with reference to regulatory capacity South Africa is also a signatory member to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. South Africa is a member state of the AU and SADC which have taken a number of regional initiatives complementing the convention. In meeting the stipulations of the convention, the Drug and Drug Trafficking Act of 1992 was passed to deal with drug trafficking. Statistically, the South African rule of law is functioning this being reflected by the performance of SAPS in dealing with drug related crimes as improved capacity has led to increased detection from 2001 to 2011.

Pertaining to administrative capacity, the following are the challenges: inadequate number of personnel serving in border control to prevent drug trafficking, shortage of resources, poor working conditions, and malfunctioning accountability mechanisms. It must be said that a lot has been done in the period from 2001 to 2011 in improving the number of personnel, working conditions, and malfunctioning accountability mechanisms. The third capacity element in relation to drug trafficking which is technical capacity has been well established in the period from 2001 to 2011. This has been evidenced by improved strategic capacity. The fourth capacity element which is the extractive capacity has been fairly functional from 2001 to 2011. This is based on the fact that improving economy has overlapped with allocation of funds towards anti-drug trafficking initiatives. However the issue of shortage of personnel, and infrastructure due to financial issues is an issue that has remained a challenge.

#### **5.1.4. Ghana on money laundering and State Capacity**

Money laundering in Ghana is made up of actors coming from all walks of life, namely: those who have been involved in other illicit activities like drug trafficking, state officials, officials from financial institutions, and entrepreneurs. Players involved in money laundering in Ghana are mostly local nationals and those from Nigeria. The main interest of actors involved in money laundering is mainly money which is used to further economic and political interests. Laundered money is used to set up a number of facilities to be used in facilitating crime. The implications of money laundering operations in Ghana are: instability, expansion of other illicit activities, and status that Ghana is a service state of money laundering operations.

Looking at all the capacity elements on money laundering in Ghana numerous issues were noted. On the regulatory capacity, Ghana is party to a number of United Nations conventions, namely: the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 2000 Convention against Transnational Organized Crime and the 2004 Convention against Corruption. Ghana is also a member state of numerous organs that have shown commitment in dealing with money laundering such as the AU, FATF, and GIABA. A number of statutes have been passed to deal with money laundering in Ghana, namely Narcotic Drug Enforcement and Sanctions Law of 1990, Banking Amendment Act 738 of 2007, and the Anti-Money Laundering Act 749 of 2008. The GPS with the assistance of FIC and NACOB has played a crucial role in ensuring the rule of law in Ghana on money laundering. Regulatory capacity on money laundering in Ghana has not been strong enough in the years from 2001 to 2011. Moreover, Ghana's administrative capacity on money laundering has also appeared weak in the period from 2001 to 2011 this being signalled by shortage of personnel and infrastructure for GPS and FIC. Accountability on the other hand has been fairly operational.

On the third capacity, which is technical capacity, Ghana has made reasonable progress from 2001 to 2011 through RPICT. However, extractive capacity of Ghana in relation to money laundering has been struggling, this occurring from 2001 to 2011 where licit economic growth has overlapped with growing size of illicit economy which is not ideal. Therefore, it is safe to conclude that success and failure have continued to compete for supremacy in this regard.

#### **5.1.5. South Africa on money laundering and State Capacity**

This study has revealed that the South African state of affairs on money laundering is more or less the same as that of Ghana. As argued above, the actors involved in South Africa's money laundering operations are: those involved in criminal activities, business owners, politicians and state officials and officials serving in financial institutions. The interests of actors involved in South African money laundering operations are centred on money. Money laundering operators use laundered money to set up entities to be used in money laundering and furthering other illicit activities. The implications of money laundering activities in South Africa are detrimental due to the following: increasing corruption levels, interference with licit economy and the country becoming the service state for money laundering.

On the issue of the four state capacity elements on money laundering operations in South Africa the situation has been as follows: South Africa is also a signatory to the following conventions of the United Nations: 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 2000 Convention Against Transnational Organized Crime and the 2004 Convention Against Corruption. Moreover South Africa is also affiliated to anti-money laundering bodies like the AU, FATF and ESAAMLG which have taken a number of steps to deal with money laundering.

South African anti-money laundering Acts are: Drugs and Drug Trafficking Act of 1992 and the Prevention of Organized Crime Act of 1998 which are complimented by other Acts of parliament. The SAPS is the main organ ensuring the rule of law on money laundering supported by agencies like AFU and FIC.

In the same way as Ghana, South Africa's size of illicit economy has been increasing from 2001 to 2011 which is not a good reflection of the rule of law. It must be said though that South Africa has strict law on money laundering. In relation to administrative capacity pertaining to money laundering, a number of issues have been noted, namely: shortage of personnel, infrastructure and malfunctioning accountability mechanisms. On the technical capacity regarding money laundering the situation has been improving from 2001 to 2011 through improved strategic capacity in agencies like SAPS, FIC, and AFU. Finally, South Africa's extractive capacity has shown signs of failure, the issue being economic growth from 2001 to 2011 coinciding with increasing size of licit economy. Here, too, although some successes have been registered, this study has revealed that there is still a long way to go before the current status quo can be reversed.

## **5.2. Recommendations**

Drawing from the findings discussed above, the following are recommended for Ghana and South Africa to strengthen state capacity in curbing drug trafficking and money laundering.

- **Awareness:** There is a need to ensure that personnel serving in entities that are affected or likely to be affected by drug trafficking and money laundering are informed about procedures to be taken when these operations are detected. Moreover, personnel serving in

anti-money laundering agencies should be familiarised with procedures to be taken where drug trafficking and money laundering has occurred. Awareness campaigns should be rolled out to communities about operations and effects of drug trafficking and money laundering on the society.

- **Cooperation amongst anti-money laundering agencies:** agencies tasked with curbing drug trafficking and money laundering within the countries in question must maintain favourable relationships. Moreover, agencies in question must also cooperate with actors tackling the problem at regional and global level.
- **Capacity building:** There is a need to improve capacity of entities exposed to drug trafficking and money laundering. Anti-money laundering agencies should also have their capacities improved through recruiting and keeping competent personnel. Capacity building should also extend to proper training of personnel and allocation of equipment. Moreover, strong and relevant research institutions on drug trafficking and money laundering need to be set up to keep in touch with evolution of these operations.
- **Transparency on spending:** Spending of budgets allocated to curb drug trafficking and money laundering need to be transparent. This should be achieved through allocating competent personnel to audit financial books of agencies tasked with reducing incidents of drug trafficking and money laundering.



### **5.3. Conclusion**

TOCs constitute a global challenge which has always evolved with times and if not tackled they are likely to remain a threat to society and hamper development. It is clear from this study that in Ghana and South Africa drug trafficking as well as money laundering are social ills which challenge state capacities. The study has revealed that there is a need for Ghana and South Africa to strengthen capacities so as to deal with those involved in activities of drug trafficking and money laundering. Ghana and South Africa must also maintain partnerships that already exist with regional and international actors concerned with curbing drug trafficking and money laundering. This point cannot be overlooked, especially given the role played by globalisation in shaping the world today. It should be stated at this juncture that the present study has used Ghana and South Africa as case studies. However, this should not be misconstrued to mean that these are the only problematic countries on the African continent or in the world at large. The problems and the issues addressed in this study transcend the geographical specificity of the present research.

In the light of the above, it would be fair to suggest that further studies with a bigger sample and which cover different parts of Africa could extend our understanding of the social ills discussed here. Moreover, it would help to compare African countries with those from other continents in order to have a better understanding of the extent and nature of the problems that have been discussed here rather tantalizingly. But, having said all the above, this study gives an idea of the timed bomb African countries are sitting on. The sooner the issues of drug trafficking and money laundering are addressed, the better for the African continent.

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