

# Smugglers and States: The Political Settlements of Informal Cross-Border Trade in the Maghreb

*By Max Gallien<sup>1</sup>*

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Working Paper for the Development Studies Association Conference 2017

Panel 53: The Political Economy of State-Business Relations

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## **Abstract:**

Informal cross-border trade or smuggling networks have commonly been presented as undermining the state by subverting the rule of law and draining state budgets. Mainstream political economy approaches towards these networks are commonly built around neo-Weberian conceptions of state-building, and neoclassical institutional theories, which struggle to explain their persistence and more complex relationships to formal structures. This article argues that by focussing on the rents generated by informal trade, and drawing on political settlement theory, we can build a powerful new analytic approach towards informal business-state relationships.

Based on intensive fieldwork in Southern Tunisia and Northern Morocco between 2014 and 2017, this paper explores the structure and regulation of the large informal trade networks in both countries. It argues that applying a political settlement framework helps us understand informal trade not as a side-effect of institutional inefficiency, but an inherent feature of the state-building process in these countries. As such, it has also not undermined the state, but supported its stability, although at the expense of the creation of developmental structures in the borderlands. This article argues that a stronger engagement of political settlement theory with informal cross-border trade can not only provide new structural insights into the political economy of smuggling, but also provide new avenues to explore crucial assumptions of political settlement theory itself.

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<sup>1</sup> Max Gallien is a PhD candidate in International Development at the London School of Economics and Political Science

## 1. Introduction

*“The informal economy is something very complex - it includes many phenomena, there is no clear treatment. It is a long process, but we have begun to protect the borders, we have intensified the controls, and what I think is most important, we have displayed a determination to fight this. (...) All the pretexts that say that because there is a lack of development, you have to permit people to - in any case, what I tell people is, if you accept that tomorrow you will not have a state anymore, that you will have smugglers and robber-barons as your bosses, go ahead! But that is not the model that the Tunisian people have chosen since their independence, and even before that! We are the children of this republic, we believe in the state, and we will reinforce the state. And the informal economy is a phenomenon that risks to strike the state at the heart of its existence. And we will fight it with the same spirit as we fight terrorism. Actually, in Arabic the words<sup>2</sup> are similar.”*

*Mehdi Jomaa, Prime Minister of Tunisia, 2014*

The idea that smuggling, informal cross-border trade, undermines states is dominant in political speeches, in policy circles, and much of the academic literature on the topic. This is commonly based on the argument that it undermines the rule of law, erodes the state’s tax base, and diminishes its ability to provide security through creating porous borders and empowering organised crime groups. In recent years, a competing argument has emerged, particular from borderland studies scholars working on Sub-Saharan Africa, who have claimed that rather than being subverted, the state is being re-made on its borders, ‘engulfed by Legal Pluralism’ (Raeymaekers 2012), and that the borderlands have given rise to new forms of governance that can be beneficial for both states and borderland populations. Other scholars have argued that particularly in post-conflict situations, rents from smuggling operations can be employed to keep actors interested in a peaceful political process (Goodhand 2012; Goodhand and Mansfield 2010).

This article aims to contribute to the discussion on smugglers and states by arguing that the structure and focus of this debate can be improved by connecting it to the recently

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<sup>2</sup> Jomaa refers to the words for smuggling (تهريب tahreeb) and terrorism (ارهاب irhaab). They are made up of similar letters, but stem from entirely different linguistic roots.

expanding scholarship on Political Settlements. While Political Settlement Theory (PST) provides a powerful theoretical framework capable of examining the role of informally and illegally created rent-streams on a political system, there are so far very few advanced theoretical discussions of this aspect of PST. To provide an illustration of a PST application to informal cross-border trade in a clientelist political settlement, this article examines two empirical cases, based on over 14 months of fieldwork in Southern Tunisia and Northern Morocco. While informal trade has played a similar role in the post-independence political settlements in both countries, their borderland systems have been exposed to a variety of shocks in recent years, making them ideal sites to study the structure and dynamics of the governance and political role of informal cross-border trade.

After reviewing the role that informal institutions play in the current political settlement literature, this paper will trace the role of smuggling economies in post-independence state-building in Tunisia and Morocco, focussing in particular on the period since 2000. It will demonstrate that an application of political settlement theory to informal trade can both re-frame the debate on smuggling and state-building, and inform key tenants of Political Settlement Theory itself, which so far have been neglected empirically. The paper will argue that rather than undermining the state, the smuggling economies in Tunisia and Morocco have been an essential part of the modus of governance, development and state-building in both countries. Rent-streams from the institutions that govern the trade have been essential to the political settlement in both countries, and have not undermined, but contributed to a particular form of state-building. While the social contract in Middle Eastern and North African countries in the second half of the 20<sup>th</sup> century is commonly conceptualised as an “Authoritarian Bargain”, this paper argues that this only applied for the region’s political centres, while an “Informal Authoritarian Bargain”, a combination of tolerated informality and controlled neglect, governed the periphery. While this has provided a form of state control over the borderlands, and a temporary substitute to development through formal rent streams, it has not fostered sustainable economic development there. It has created dynamics of accumulation and dispossession, alongside significant dependence on outside actors and international market forces. Finally, and contrary to the common assumptions in Political Settlement Theory, the key connection between many members of informal trade

networks and the political settlement are institutions, not patronage structures, which leaves these people particularly vulnerable and disconnected once these institutions change. These are challenges that both Tunisia and Morocco will need to address as they aim to transform the situation in their borderlands.

## 2. Research Design and Methodology

As this paper aims to trace the rents and regulatory structures around informal trade, and relate them to the larger local and national political structures, observing a variety of structures, and changes in structures is important in order to draw valuable inferences. At the same time, research in this area is incredibly time-consuming, as it requires a lengthy process of contact-building and triangulation locally, leading most scholars working on this issue to rely on single case studies. I try to resolve this issue by working through a double paired comparison – focussing on two informal trade networks, fabrics and gasoline, in two locations, Northern Morocco and Southern Tunisia. This allows to draw inferences both within and between cases, while also providing detailed local analysis. The fact that Northern Morocco and Southern Tunisia have a similar structure and history in terms of their relationship with informal trade, but have recently experienced different shocks to the economic and political structures at the borders makes them ideal case studies for this kind of analysis.

Studying informal trade comes with particular methodological challenges (Ellis and MacGaffey 1996), which are best tackled through a multidisciplinary data collection strategy, combining interviews with ethnographic work and cooperation with local researchers and civil society. The main data for this article are over 230 interviews with members of informal trade networks, politicians and bureaucrats, members of security services and local civil society in Morocco and Tunisia that have been conducted by the author in 2014, 2016 and 2017. These have been supported through detailed ethnographic analysis in local borderlands, markets and administrative structures. The particular focus lay on the city of Ben Guerdane in Tunisia, with a secondary focus on Medenine, and on Oujda in Morocco, with a secondary focus on Nador. Due to the prevalence of misreporting in this subject area, significant effort has gone into triangulating information – all informal regulatory institutions

discussed here will have been confirmed by at least three independent and well-informed sources, or have been observed directly by the author. While some snowball sampling has been employed, great effort has been put in obtaining a large number of diverse samples, and collecting interviews with participants from a variety of perspectives, covering a wide range of informal trade networks, social class, age, gender and positions within these networks. As many of the people interviewed in this project are involved in illegal activities, most of the interviews cited do not reveal the full name of the person interviewed.

In recent years, as is discussed below, the situation in North Africa's borderlands has been in a state of flux and continuous transformation. While this makes a fascinating environment for analysis, it also means that any article on this issue is essentially outdated the moment it is written. As this paper is interested in making a larger argument, rather than reporting on daily bribe levels, this does not undermine the purpose of this paper, however, it is the reason I have written all empirical descriptions in the past tense.

The focus of this article lies with informal cross-border trade (CBT), which I will here use interchangeable with "informal trade" and "smuggling". I define informal cross-border trade as the illegal trade in legal goods, meaning goods for which a legal trading regime with no specific restrictions exists. This differentiates it from the illegal trade in illegal goods, such as narcotics and firearms, and human trafficking – I will make reference to these phenomena below, but will describe them as "trade in illicit goods", and not group them under informal cross-border trade in general. I treat informal cross-border trade as a subset of the informal economy more widely, which I follow Castells and Portes in defining it as income generation that is "unregulated by the institutions of society, in a legal and social environment in which similar activities are regulated" (1989, 12).

### 3. Political Settlements and Informal Institutions

Recent years have seen an enormous amount of scholarship on political settlements in a variety of disciplines, which makes it increasingly difficult to pin down one clear definition or approach – Laws (2012) finds 16 different distinct definitions of 'political settlements' in mainstream literature. However, a general theoretical project is clear. Political Settlement

Theory (PST) analyses the formal and informal arrangements that determine the distribution of resources in a given political system, and holds the coherence between this distribution of resources and the distribution of power between groups to be a fundamental determinant of institutional performance and development. Khan writes: “institutions and the distribution of power have to be compatible because if powerful groups are not getting an acceptable distribution of benefits from an institutional structure they will strive to change it” (2010, 3). Of the diverse formulations of PST, I will here stay close to the original concept popularised by Mushtaq Khan (2000, 2009, 2010), as I find it to be the most precise and productive in its formulation of the relationship between rents, institutions and development, however, I would argue that the main conclusions of this paper hold for a wide range of PST variations. Khan, then, defines a political settlement as “an interdependent combination of a structure of power and institutions at the level of a society that is mutually ‘compatible’ and also ‘sustainable’ in terms of economic and political viability” (2010, 20).

One crucial argument at the heart of of PST is that political stability and development are not just contingent on having the right set of formal institutions, and enforcing them, but that informal institutions can also play a fundamental role in reallocating rents and resources in a way that brings the overall distribution of resources in line with the balance of power. PST scholarship generally identifies informal institutions as institutions that are not written down and not enforced by the state as a third-party actor, but nevertheless clearly recognisable as structuring human interaction. Informal institutions can be socially engrained and tacit, or can be enforced by non-state third-party actors. Khan in particular highlights that “an important characteristic of all informal institutions is that there is no necessity that these rules are generally followed or are applicable to all individuals of the same category. By definition, while most or all formal institutions are impersonal, informal institutions are never impersonal” (2010, 11).

In its approach to informal institutions, PST stands in opposition to neoclassical economic analysis which views rents in general as inefficient and a primary cause of development failure (Posner 1975; Kruger 1974; Coolidge and Rose-Ackerman 1999), and a large chunk of the institutional economics literature that frames informal institutions as “primarily

dysfunctional” (Helmke and Levitsky 2004, 731), focussing on their role in undermining the performance of formal institutions, states and democratic structures (O’Donnell 1996; Hartlyn 1998; Lauth 2000). PST frameworks usually display much more scepticism about the ability of formal institutions to bring the distribution of resources in line with the distribution of power, and hence generating stable political settlements. Khan writes: “A significant characteristic of developing countries is that their inherited distributions of power cannot be supported by the incomes generated by formal institutions alone. Informal institutions play a vitally important role in all developing countries because informal institutions are the only feasible mechanism for sustaining economic benefits for powerful groups who would otherwise have lost out” (2010, 22). Informal institutions can therefore be crucial for stability, and they can, under the right conditions, be developmental.

While this approach enables the scholars on political settlements to generate fascinating new hypotheses on the roles of informal institutions in state-building and development, it is worth noting that there is an enormous scarcity of actual PST applications to informal economic structures<sup>3</sup>, as the mainstream of the PST literature has focussed on industrial policies in formal sectors, and peacebuilding and post-conflict situations. This paper will engage with the case of smuggling networks in North Africa in order to both advocate for a PST approach to informal economies by demonstrating the insight and structure that this approach can generate, and in order to highlight the theoretical issues within PST that need to be addressed in order to strengthen and refine its analysis of informal economic structures.

While to the best of the author’s knowledge this is the first project that systematically applies a political settlement analysis to informal trade, there are a few related analyses that are important to highlighting in order to lay out some of the empirical questions. Focussing on criminal rather than informal trade, Goodhand (2005, 2008, 2012) describes how the monetary opportunities created through their participation in the drug trade in Afghanistan gave wartime military entrepreneurs a stake in a peacetime economy, included crucial actors in the prevailing political settlement, and helped stabilise the country. He concludes that illegal trade does not necessarily undermine the state, that "war economies and shadow economies may therefore be seen as part of the long and brutal politics of sovereignty. Illegality and the state have been constant companions, and revenue from illicit

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<sup>3</sup> I will discuss some exceptions to this below.

flows, and their control, may actually strengthen the state" (Goodhand 2012, 334). Like Goodhand, Boone's (Boone 1994b, [a] 1994) analysis of informal trade in Senegal and the Côte d'Ivoire describes the use of rents from informal trade in the building of domestic support coalitions for the government. Her conclusions however are less optimistic, as she highlights that while these rents solidify domestic coalitions, "import fraud and contraband deprive states of desperately needed tax revenue and speed the collapse of long-protected light industries in both the Côte d'Ivoire and Senegal", and "contribute to a general process of the state as a legal and regulatory apparatus, the decay of the authority of the state, the undermining of its developmentalist legitimacy, and the withering of the state's internal resource base" (1994b, 462). Both cases demonstrate the stabilising role that rents from informal trade can play in a political settlement, but also throw up concerns towards the long-term trajectory of this kind of settlement. Both of them present an argument for a more fine-grained and structured analysis of the relationship between informal trade and state structures, which this paper tries to provide through the comparative case study analysis provided below.

#### 4. A Brief Introduction to the Case Studies

While there is a wealth of excellent studies on West (Chalfin 2001; Meagher 2003; Nugent 2003, 2007; Tandia 2010; Walther 2012), South (Dobler 2014; Englund 2001; Dobler 2011; Coplan 2001; Hughes 2008; Zeller 2009, 2010), and East Africa (Feyissa and Hoehne 2010; Little 2007; James 2009; Titeca 2009, 2012; Titeca and Herdt 2010) to name just a few, there has been very little research on borderlands and informal trade North Africa<sup>4</sup>. This is not for the lack of informal trade in the region, as the subsidy regimes in Algeria and Libya, the influx of goods from South-East Asia, and the expanding migrant streams have opened up opportunities for huge informal trade structures across the region. Beyond filling a geographical gap in the scholarship on borderlands, Southern Tunisia and Northern Morocco make fitting case studies for this project as the role of informal trade networks in the two countries has largely developed in parallel, trading in similar goods, due to similar economic

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<sup>4</sup> Some notable exceptions to this includes the work by Scheele (2012), Meddeb (2011), Hüsken (2009), Laroussi (2007), Tabib (2011) although none of them engage in a political economy analysis.



incentives, and playing a similar role in post-independence state-building, before a variety of shocks and disruptions have led to diverging outcomes in recent years. Both are highly complex case studies, and doing them justice within this paper is impossible, however, I try to highlight the key structural and institutional dimensions of the recent shocks and transitions in order to outline a PST approach to them in the later part of this paper.

## 5. Smuggling in Southern Tunisia – Goods and Structures

Discussions on smuggling in Tunisia have heated up in the years since 2011, as security concerns intensified, ISIS attacked the country's main smuggling hub, and the World Bank reported that informal cross-border trade in the country has become equivalent to more than half of its official trade with Libya, and more than its entire official trade with Algeria (Ayadi et al 2013). However, informal cross-border trade between the small North-African state and its two large neighbours predates the modern Tunisian state itself, as its Southern regions had been active sites of exchange during the colonial period, drawing in particular on a history of active tribal relationships in the Jefara, a region spanning parts of Southern Tunisia and Western Libya. While it is tempting to extend the history of trade in this borderland back into the days of the Roman conquest (a task remarkably demonstrated by Laroussi (2007)), the origin of the informal trade structures as they exist today lies in the years between Tunisia's independence and the 1980s. Subsidies and low gasoline prices in oil-rich Libya, tribal connections and intense movements of guest workers had created excellent conditions for the emergence of arbitrage-based informal trade structures in the country's South, which expanded as cheap imports from South-East Asia began flooding the Libyan and Tunisian market. The sanctions regime in Libya, the simultaneous economic crisis in Tunisia and the necessity for providing a currency market between the two states all encouraged both the Ghaddafi and the Ben Ali regime to tolerate the booming of the informal cross-border economy – a boom that continued into the early 2000s.

At the heart of this boom stands the city of Ben Guerdane, about 20 miles from the Libyan border, in the region of Medenine. For Ben Guerdane, the smuggling economy became its lifeblood and life saver, being located in a part of the country which otherwise saw little to

no economic development, as post-independence Tunisia continued the colonial trend of focussing investment in its capital city and the Sahel region. Medenine in particular had provoked the spurn of President Bourguiba through widespread support for the Youssefist rebellion<sup>5</sup>, with many people locally still interpreting their economic fate as a ‘punishment’ (International Alert 2016). Between 1973 and 1985 the region received less than 1.5% of formal state investment despite accounting for 4% of Tunisia’s population (Abaab, Haddar, and Tarhouni 2014, 8). There is almost no industry in the region, only 2% of the local firms have more than six employees, and almost all of them are hotels (ODS Office de Développement du Sud, Ministère du Développement Régional et de la Planification, République Tunisienne 2012, 10). In Ben Gardane, a town of over 70 thousand people, manufacturing employs 397 (Ibid., 101). The set of legal enterprises is small: a couple of bakeries, internet cafes, and transport services. For decades, the smuggling networks have been by far the largest employers around.

Two main routes have developed. The first, and by far the largest in terms of local employment, leads through the border crossing at Ras Jedir, where goods are usually either not registered or mis-registered against a bribe. Trade here, albeit illegal, is highly normalised and routinized. The second route leads through the desert South of the border crossing, a vast and complex terrain that requires local knowledge, excellent driving skills, and courage. This route is patrolled by security forces, engaging in car chases and gunfights, and have led to significant casualties amongst the smugglers.<sup>6</sup> This route is high risk high reward, and is usually used by networks trading in high-value goods such as narcotics, arms and cigarettes, or by traders bringing in higher quantities. The largest trade networks, those trading in gasoline, textiles, and consumer goods imported from China and South-East Asia, operate through the border crossing. While the gasoline is bought directly at the gas stations

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<sup>5</sup> The Youssefist rebellion describes the brief power struggle between Habib Bourguiba and Salah Ben Youssef in the 1950s, which was eventually won by the former, leading to Ben Youssef’s escape into exile and subsequent assassination.

<sup>6</sup> The Tunisian government has been constructing new security infrastructure on the border in the past years, centered in particular around a ditch filled with chemicals. Apart from slightly changing the desert routes, this does not seem to have significantly impacted the trade so far, traders did not report the amount of traffic on this route decreasing. The most common strategies seem to be throwing goods across the ditch, or putting boards over it and driving across.

in Libya, where it is significantly cheaper due to the subsidy regime<sup>7</sup>, most goods have not been produced in Libya, but have been shipped to the port of Tripoli, where they take advantage of cheap tariff rates, and then re-packed onto smaller cars and brought through the border crossing, sidestepping the formal Tunisian tariff rates. While the gasoline is sold in informal roadside gas stations across Tunisia's South, other informally imported consumer goods are sold in stores in formal and informal markets across Tunisia.

The level of routine and normalisation that characterises this trade is one of the most striking features of the smuggling economy of Ben Guerdane. While the literature commonly imagines smuggling to happen in the shadows or "under the radar" (Oviedo, Thomas, and Karakurum-Özdemir 2009), most activities here occur in public and fully visible. The road to the Ras Jedir border crossing is packed with garages and stores, the street clogged up with cars that have goods piled on their roofs, boxes of tea, cigarettes, glasses, line the side of the road. There is no scarcity of security forces in Ben Guerdane – police, customs, national guard, military. Nobody bats an eye.

The routinisation of these trade practices is closely connected to their governance. Since the expansion of this trade in the 1970s and 1980s, a complex set of institutions has developed that governs a wide variety of the aspects of this trade. The categorisation of these institutions defies the classic formal-informal divide. They are usually, though not always, unwritten. They are usually in opposition to the formal Tunisian law, though agents of the Tunisian state are directly involved in their negotiation and enforcement. While some of them are quite personalised, some of them are entirely impersonal. I will refer to these institutions as "co-created institutions".

To give an example of what I mean by this, it is useful to look at one such institution in detail. In April 2017, the following procedure was in use for the informal trade of gasoline and foreign consumer goods at the Ras Jedir border crossing.<sup>8</sup> Traders who brought goods with a value of less than 2000 Libyan Dinar plus about 150 litres of gasoline across the border would typically not pay anything at the border crossing, neither the official import

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<sup>7</sup> This practice has decreased significantly at the time of writing, due to a gas price crisis in Western Libya, and local resistance against the practice particularly in Zuwara. However, this was one of the dominant forms of informal trade between the 1990s and 2017.

<sup>8</sup> This description is based on interviews with a variety of traders, as well as the leadership of some of the groups that were involved in the negotiation and maintenance of these institutions

tax, nor any informal fee.<sup>9</sup> Traders who brought goods valued at over 2000 Libyan Dinar through the border crossing would pay 1500 Libyan Dinar to an intermediary on the Libyan side, while 300 Dinar would be paid to the Tunisian customs officials. While the money on the Libyan side is divided between multiple involved groups on the Libyan side, the money paid to the Tunisian Customs is partly paid into the official state coffers, and partly goes into the Customs' pockets.

The agreement had evolved out of a negotiation process that involved local municipalities as well as officers from armed brigades in Libya<sup>10</sup>, members of civil society in Tunisia, members of the Tunisian Customs, a Tunisian member of Parliament, and Tunisian informal traders, including the head of the 'Organisation of Tunisian Libyan Brotherhood', a local group largely made up of traders from Ben Guerdane. While the rules and routines established by this agreement are in direct contradiction to Tunisian law, and the Tunisian state has not officially endorsed this procedure, it tolerates it. In fact, the member of parliament and one of the Tunisian informal traders who were crucial to negotiating the procedure had received the explicit support of members of the Tunisian cabinet, including the Prime Minister and the Minister of Interior and Defence, under the condition that they not interfere with national security. As the agreement regulates the trade at the Ras Jedir border crossing, and not in the desert, it does not cover the trade in illicit goods, such as drugs, counterfeit medicine, or firearms. While this agreement is unwritten, an earlier version of the agreement had been written down, in a "memorandum of understanding" (*Wathiqat Tafahim*) in January 2017, and one of the members involved in the negotiation process expressed optimism that future versions might again be written and printed. It is also worth noting that the agreement is largely impersonal – it applies to all traders, irrespective of their family connections, patronage, age or origin. That is not to say that actors within Ben Guerdane's informal economy cannot use connections to get ahead – it's one of the central features of competition in much of the networks – but the essence of the agreement remains impersonal. This agreement is not an anomaly or an outlier, but signifies one particular iteration of a long history of similar agreements that have varied with changing power structure and external circumstances.

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<sup>9</sup> I write 'typically' here, as there would be occasional payments elicited by border guards through creating artificial traffic jams and then charging traders for circumventing them.

<sup>10</sup> In particular, representatives from the „Brigade of the Martyr Jamal Raeb“

As I have mentioned above, it is hard to classify an institution such as this as either strictly 'formal' or 'informal' in the way these terms are usually treated in the literature, and yet this type of 'co-created institution' is absolutely fundamental to the governance of smuggling in North Africa. Up until 2011, similar institutions governed the distribution markets in Ben Guerdane, where goods that have been imported informally are sold to both local buyers and wholesalers who transport them to the rest of Tunisia. The main distribution market in Ben Guerdane, the "Souk Maghrebi", named in a brief period of enthusiasm about the Arab Maghreb Union, was constructed by the municipality, and taxed informally, as they did not own the land on which they had built. The municipality also sold slips to customers that – falsely – assured that the goods had been imported legally, in order to easily pass through police checkpoints on the roads through Tunisia. Another crucial informal agreement between traders and local security forces concerned the surveillance on the border in the desert, where illicit goods and larger quantities of high-value licit goods were traded, however on the understanding that if anyone not known to them would pass the border, or anything suspicious were to happen, they would inform the local security services.

Apart from their complex status between formal and informal, a crucial thing to recognise about the institutions that govern the informal trade in Southern Tunisia is that they play a crucial rent-generating and rent-distributing role. They are part of a complex system of income, information, risk and opportunity that structures the informal border economy of Southern Tunisia. Mapping this in detail would go far beyond the scope of this paper, but it is important to discuss its effects. The institutions, structures and circumstances under which these trade networks operate reliably channel the arbitrage rents created by the border and the structures that allow for tolerated informal trade to a variety of groups: local networks, state institutions, consumers and elites. Between local networks, the largest income streams are associated with networks trading in illicit goods through the desert, income streams that are however also connected to the highest risks, and where access has been severely restricted by natural barriers to entry such as capital and connections, and quasi-monopolies enforced through violence. At the same time, large networks such as gasoline and textiles have very low barriers to entry, especially in the lower level positions, and still channel reliable rent streams to the local (male) population that has little other employment perspective. Still, at the upper level of informal enterprises, there are substantive opportunities for accumulation, even in the trade of licit goods. State institutions have also

been able to participate from the rent stream, as local municipalities have found more or less legal institutional innovations to tax the retail side of the informal trade, mainly through expanding on the old institution of the “mekkes”, the tax for the rotating weekly markets, through tax-farming, or through taxing the commercial use of public space. For the municipality of Ben Guerdane, this had been a substantive part of their income and budget in the two decades leading up to 2011. Aside from formal state institutions, individuals working for the state managed to benefit privately from the trade, primarily through bribes that went overwhelmingly to police and customs officers, and more recently have included the Tunisian military. Posts in the South have become attractive positions for lower-level state agents, while higher-level agents have become powerful players, and established strong connections to national political and economic elites – it is worth noting in this context that the Customs officers at Ras Jedir have not been rotated for many years, a practice that is usually commonplace in Tunisian Customs. Another important rent stream has gone to local consumers – informal trade has supplied cheap goods for the poorest regions of the country, and has substantially lowered the living costs for local populations and businesses, with the price of gasoline playing a crucial role. And finally, cross-border trade has opened up opportunities to strategically channel large rent streams to politically connected elites, both locally and nationally. The most infamous example of this has been the family of the former Tunisian president Ben Ali, who cooperated with selected traders in Ben Guerdane to participate in the informal trade, for example exporting alcohol to Libya. At the same time, connected elites in the political centre were able to use their connections in the Tunisian state and in particular to the Customs Agents in order to shield their quasi-monopolies from informal competition. Under the Ben Ali regime, the agreements at Ras Jedir included a stipulation that forbade the informal import of certain licit goods – such as bananas, nuts or dried fruit – that were imported – partly legally, partly illegally – by well-connected businessmen in Tunis.<sup>11</sup>

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<sup>11</sup> The existence of these restrictions does not mean that there existed no informal trade in these goods, however, it meant that these goods were traded through the desert, on the same route as many of the illicit, in the context of significantly higher risks.

## 6. Smuggling in Southern Tunisia – Shock and Transition

While the existence of largely tolerated, routinized and structured informal trade in Southern Tunisia has remained largely constant since its independence, there have nevertheless been important shifts in the wider enforcement environment. As mentioned above, the current trade routes and structures started developing in the 1970s and 1980s, becoming politically expedient particularly in the late 1980s, during the sanctions regime in Libya. Many of the older traders in Ben Guerdane made their fortune in Gaddafi's Libya, earning him enormous popularity amongst some of the large families, and laying the ground for an alliance between Ben Guerdane and Gaddafi loyalists in Libya. The position of Ben Guerdane within Tunisia took multiple shifts as the regime of Ben Ali evolved in the late 1990s and 2000s. Having come to power in 1987, followed by a brief flirt with a political opening, the Ben Ali regime turned increasingly authoritarian in the 1990s, and in the early 2000s developed a highly predatory approach towards the domestic economy, with members of the family of Ben Ali's wife, Leila Trabelsi, playing a large role. This did not leave Ben Guerdane untouched, with people connected to the Trabelsi network reaching out to build connections in Ben Guerdane. However, around 2008, this strategy changed, with the group instead extending their own informal trade activities through the ports, particularly in Tunis and Sfax, enjoying a natural advantage in conducting informal trade through ports, where political connections are crucial. Shortly afterwards, in 2010, the border crossing at Ras Jedir closed. There are competing explanations of the reasons for this closure. Kamel Morjane, Foreign Minister at the time, argued that "The decision to close the border was not at all coming from the Tunisian side. Ghaddafi took this decision in order to impose a fee on each truck that was crossing into Libya, which prompted a negative reaction by the traders."<sup>12</sup> However, both the traders of Ben Guerdane, and influential scholars of Southern Tunisia (Meddeb 2011; Laroussi 2013) recount a different version of the story, arguing that the Trabelsi network had put pressure on Ben Ali to force the border closure, in order to weaken their economic rivals. In either case, in the summer of 2010, a formerly fragile economic balance was disrupted when the border crossing closed, temporarily disabling the informal trade networks in Ben Guerdane. Protests and riots erupted throughout Ramadan 2010, and continued until the border reopened, with the central government effectively

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<sup>12</sup> Interview, Kamel Morjane, Tunis, 07.01.2017

losing control on its Southern border. The 2010 resistance in Ben Guerdane merged with the nationwide protests in late 2010, leading up to the 2011 revolution, which provided a significant shock to the enforcement environment in Southern Tunisia. Following the 2011 revolution, significant amount of state agents left their posts, fearing retributions from citizens. This included the personnel at the border crossing, as well as the municipal agents that had been collecting taxes in the markets. For a brief period, locals from Ben Guerdane began manning the border crossings, and for much of 2011, huge quantities of goods passed through with virtually no regulation. As some political stability returned in 2012 and 2013, media coverage on the issue picked up, and there was considerable national unease about the security dimensions of what might be going on in the South. Traders felt that a sense of pressure was increasing, and themselves approached state institutions, searching dialogue. In 2014, a group of local traders and civil society representatives met directly with Tunisian President Moncef Marzouki, a life-long human rights activist who took a meeting many of his political rivals would probably have declined. When asked about the meeting, Marzouki explained: "Half of Tunisia's economy is informal. If you want to call them criminals, you can do that, but that does not help. The informal economy must become part of Tunisia's structural economy. I know that the President believes that they are all criminals. But don't forget that these people also called me a terrorist."<sup>13</sup>

One of the primary complaints, interestingly, brought forward by the traders in the meeting was the aggressive media campaign against them, which was particularly concerning as the attitude that the newly democratic Tunisian state would have towards the trade was not clear. Traders, and the Organisation of Tunisian Libyan Brotherhood in particular, also approached the local governor and head of the Customs agents, and proposed the re-establishment of the old procedure at the Ras Jedir border crossing, although with a significantly lower bribe level, to 're-acustom' people to the payment, and likely to reflect the shifted balance of power.<sup>14</sup> After several weeks of consideration, local authorities accepted the proposal, and the old procedure was re-established at Ras Jedir, with the levels of the informal 'fee' rising throughout 2014. While the language of the central government with regard to smuggling in these years remained hostile, particularly under the government

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<sup>13</sup> Interview Moncef Marzouki, Tunis, 04.01.2017. Marzouki references Essebsi, the Tunisian President at the time, the party of which had made harsh public statements about Marzouki's critical stance on security sector reform.

<sup>14</sup> Interview Large-Scale Trader, Ben Guerdane, 10.09.2014



of Mehdi Jomaa, on the ground, a stable relationship of toleration and informal ‘fees’ was re-established.

The relationship between the central state and the traders again was put under pressure in early 2015, when ISIS fighters attacked the town from Libya, aiming to gather local support and set up a foothold in Tunisia. The attempt failed, as local citizens began defending their town alongside the police and armed forces. The victory in the ‘Battle of Ben Guerdane’ managed to shift the public perception of the town, but it also came with an enormous influx of security personnel in the following months. “The government got scared after the 7th of March, so they put a lot of police in the street”, a large trader told me, “Ben Guerdane is now safer than all of Tunisia”<sup>15</sup>. However, the increase in security presence also came with significant drawbacks for the local population. In the absence of an elected local administration, and far from the parliament in Tunis, there is a sense that Ben Guerdane’s main interaction with the Tunisian state is via the security forces, an element of the state that has not fully endorsed the 2011 turn towards a democratic system. As one policeman told me on an involuntary visit to the Ben Guerdane police station: “Tunisia is a democracy – you must know that we are all for freedom of expression. Just not in Ben Guerdane.” A leading human rights activist from Ben Guerdane told me: “We have gained security, but we have lost much, in terms of commerce, in terms of our standard of living.”<sup>16</sup>

While tolerance of informal trade was still the order of the day, the increased presence of security forces had increased the costs of the trade, which coincided with increasing supply problems in Libya due to the civil war. By 2016, Ben Guerdane was heading for another crisis – dissatisfied with the situation on both sides of the border, seeing their profit margins collapsing and experiencing increasingly harsh treatment in Libya, traders started blocking the border crossing and engaging in a set of strikes and protests that lasted for months, until an agreement for a new set of procedures at the Ras Jedir crossing was reached in early 2017 through the negotiation process described above. Shortly before the anniversary of the IS attack, stability returned to Ben Guerdane’s trade networks – but it did not take long for another outside shock to challenge the subtle balance.

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<sup>15</sup> Interview Large-Scale Trader, Ben Guerdane, 07.03.2017

<sup>16</sup> Interview Human Rights Activist, Medenine, 18.07.2017

In May 2017, Tunisian Prime Minister Youssef Chahed kicked off a political campaign that is commonly referred to as the “War on Corruption”, arresting the prominent businessman Chafik Jeraya alongside customs officers in a move that proved hugely publicly popular, while its real effect on corruption in the country has been doubted by many analysts. The campaign has also been noted for its unconventional means of enforcement, including the use of the military and special units of the police to make arrests, and its frequent boasting about filling the coffers of the state. After Ramadan 2017, Ben Guerdane should get some first-hand experience with both of these features, as members of Tunisia’s Anti-Terrorism Police raided the houses of some of the towns providers of informal financial services, the ‘Sarraf’, in the middle of the night, confiscating money and objects of value under the accusation that they were financing terrorism. These tactics were seen incredibly sceptically locally, both by members of informal trade networks and civil society. “With this campaign, there are no longer any rights, they can even rob the gold of the women, there is no law in this. This is against human rights, to attack these houses, at midnight, for no reason,” one trader told me, “People here work hard and stay hungry and then they get gold for their wife and their daughter. When they came to take the money, they took the gold from the women. Really, nobody can argue that this gold was intended for terrorism.”<sup>17</sup> The common view on the ground, that the use of the midnight raids by anti-terror police was more a choice of convenience than the result of any evidence linking any of the traders to terrorism, was confirmed by a high-level official in the Ministry of Trade and Commerce, who argued that “This use was based on a level of procedure - it was easier to do this way. It is also quicker. The police don’t have the means to prove academically that these people are connected to terrorism. And there is also the risk of justice. And there is a risk of arresting the innocent, that’s true. But, in every operation, there are risks. And these people are anti-state.”<sup>18</sup> The same official also provided some rationale for the arrests themselves, arguing that the state was “aiming to reinstate a certain equilibrium, an equilibrium that has existed before. We need to get back to an equilibrium, and we need to get contraband back to an acceptable level.”<sup>19</sup>

But pressure from the Tunisian state was not the only problem Tunisia’s informal trade networks had to face in the summer of 2017. As the economic situation in Libya

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<sup>17</sup> Interview Large Scale Trader, Ben Guerdane, 17.07.2017

<sup>18</sup> Interview Ministry of Trade Official, Tunis, 28.07.2017

<sup>19</sup> Ibid.

deteriorated, increasing resistance against the smuggling out of subsidised gasoline, particularly in the city of Zuwara, led to groups on the Libyan side increasingly cracking down against gasoline smuggling, stopping gasoline traders at the border, and quickly leading the price of smuggled gasoline, which supplies most of Southern Tunisia, to triple. Gasoline traders, one the largest groups in terms of employment, became increasingly concerned about their future, and by August 2017 had started protests, and once again blocked the road to the Ras Jedir border crossing. The atmosphere was increasingly tense. “Soon”, an informal gasoline wholesaler told me in July, “there will be an explosion.”<sup>20</sup>

As these few pages have shown, a full discussion of the twists and turns of informal trade in Southern Tunisia since the early 2000s goes far beyond the scope of the paper, but in the context of its central argument there are a few important elements of this story that need to be highlighted, before moving on to a discussion of the second case study. First, there is a clear pattern that any interruption of the rent stream generated and distributed by the informal trade networks in Southern Tunisia is met with significant social upheaval and instability, most notably in 2010 and 2016. Second, with the exception of a brief period between 2010 and 2011, there was a complex and relatively consistent institutional structure in place that governed the different informal trade streams. It is generally accepted by all sides that this – extra-legal – structure is crucial to stability. As a high-ranking local bureaucrat told me: “Sometimes it is the law that secures the social peace. But here, we have a special situation. Here, it has never been just the law that secured this.”<sup>21</sup> Third, on a macro-level, both key figures in informal trade networks and the Tunisian government over the past decades have pursued largely consistent strategies. The strategy of consecutive governments towards the trade could be summarised as tolerating it to the degree that it avoids social upheaval, striving to play an active role in its local regulation in particular as it relates to the security situation, shielding certain sectors of the formal economy, and occasionally directing rent streams. The strategy of the traders has been to maintain informal regulatory structures, while at the same time jealously protecting their part of the rent streams. As their relative strength fluctuated over the past decades, both sides have tried to adjust the existing regulatory structure to their advantage, mirroring the

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<sup>20</sup> Interview Informal Gasoline Wholesaler, Ben Guerdane, 18.07.2017

<sup>21</sup> Interview Municipal Bureaucrat, Ben Guerdane, 20.07.2017

underlying balance of power. In this context we observe a continuous process of negotiations throughout this period, alongside attempts by both sides to test their ability to increase pressure and adjust the balance, with the summer of 2017 representing the latest push by the central government, that will likely be met with a backlash.

Underneath this pattern, there is a fourth crucial point to highlight, namely that while these past decades have seen an intense push and pull around the regulation of trade, there has at no point since Tunisian independence been any substantive transformation of the economic structures in Southern Tunisia, although it has been declared government policy for decades. There is no substantive re-routing of formal rent streams, no upgrading of local infrastructure, or serious attempts at establishing a local industry - plans for free trade and logistical zones have been on the books for decades with no signs of realisation. This has created a structure that does not offer any economic alternatives to the local population – no other theme has been this dominant in my interviews with traders. As one of the chief negotiators of the local border procedures told me: "the people trading in Libya are trading under gunfire, they are not doing this to enjoy themselves. The people who are working in the desert are giving themselves to get the bread, and if you see people doing that, you know that there is no other solution for them."<sup>22</sup> A few months later, he added: "if you want to make a war against these people, you need to have a replacement, then you can arrest them. But there is no replacement."<sup>23</sup> As long as the current structure remains, the existence of informal trade, and the rent streams that it generates hence remain fundamental to the stability of Southern Tunisia, and the country more widely. However, as is the nature of informal trade, it does not only depend on one country. Despite the IS activity and the (albeit small) flow of small firearms and extremists out of Libya, the largest threat that the current situation in Libya bears for Tunisia's stability is that it might one day cut off the informal trade structures in the country's South. As the experience of the the past decades has shown, this would likely have a highly destabilising effect on the political structure in Tunisia.

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<sup>22</sup> Interview Large Scale Trader, Ben Guerdane 06.03.2017

<sup>23</sup> Interview Large Scale Trader, Ben Guerdane, 17.07.2017

## 7. Smuggling in Northern Morocco – Goods and Structures

At this point it might be instructive to draw on another case study that shows a very similar history and structure when it comes to informal trade in its borderlands, but has taken a very different trajectory in recent years, and was able to see one of the key informal trade corridors become severely restricted without seeing its stability fundamentally threatened. Before going into this dynamic in more detail, I'll provide a brief introduction on smuggling in Northern Morocco.

Unlike South-Eastern Tunisia, the cities of North-Eastern Morocco lie near two international borders that can be exploited for informal trade. Algeria lies to the East, while to the North lie the two Spanish enclaves Ceuta and Melilla, two reminders of Spain's former colonial presence in Morocco. Both have retained a status as 'free ports', allowing for the cheap import of large amounts of foreign-made consumer goods.<sup>24</sup> The enclaves however were not the only legacy of Spanish colonialism in Northern Morocco. The protectorate that ranged from the Atlantic coast to the Algerian border and spanned the mountainous Rif area was known for promoting a largely extractive economic policy, contributing little to economic development and leaving the region's infrastructure in considerably worse shape than the areas covered under the French protectorate. Furthermore, the borders between the Spanish and French protectorate already saw early movements of informal trade during the colonial period. The focus of this paper is on the 'Oriental' region in the North-East that is dominated by the cities of Oujda and Nador. Both had seen little state investment in the majority of the post-independence period up until 2005, leading the local economic structure to converge largely around two activities: migration and informal trade. Emigration to France was a common strategy in North-Eastern Morocco in the post-independence years, and one that was gladly encouraged by a government that was not eager to invest heavily in a region that King Hassan II had expressed open dislike for, and that had been habitually referred to in Rabat as "le Maroc inutile" – the useless Morocco. Apart from

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<sup>24</sup> Despite their status as 'free ports', import into Ceuta and Melilla is not entirely free, there is a small fee that needs to be paid in the harbour, however this fee for many years and many products has been substantially lower than the corresponding import tariff in Morocco. On top of this, the fee is commonly not paid in full, as misreporting and under-reporting at least in the port of Melilla are common. (Interview Customs Official Melilla, 30.05.2017)

France, labour migration to Algeria was common, setting the groundwork for the Oriental<sup>25</sup> to become of the most globally connected regions in Morocco - even today approximately 30 percent of the Moroccans living abroad stem from the 'Oriental'. While this contributed to the region's expanding informal trade economy, the largest drivers, as in Tunisia, still lay in price differences and tariff evasion. Similar to Southern Tunisia, both the Northern borderlands between Morocco and Algeria, and the Spanish enclaves and their Moroccan hinterland are deeply integrated socially, with many families living on both sides of the border, and economic relations dating back centuries. However, in another parallel, the dominant informal trade structures in the early 20<sup>th</sup> century have their origin in the 1970s and 1980s. Three key routes developed. First, the border between Algeria and Morocco, open up until 1994 was then closed due to diplomatic conflicts between the two governments, however it remained highly porous until around 2015. Across the northern part of the border, between Ain Beni Mathar and Saidia, a thriving smuggling economy developed, in which agricultural communities close to the borders played a large role, using their farms as temporary storage, while the cities of Oujda and Beni Drar became key markets for cheap consumer goods that were then distributed across the country – similar to the position Ben Guerdane took in Tunisia. Among the goods traded along this route, gasoline also became dominant, which, subsidised and significantly cheaper in Algeria was transported across the border in canisters on cars, donkeys and on foot, and then sold at informal gas stations across Northern Morocco. Other key goods are metal goods and construction materials, agricultural equipment, milk powder dates, cigarettes and some fabrics, while fruits, vegetables, and traditional Moroccan fabrics would go in the other direction. Most of the goods are carried or driven through little gates along the border, which are usually closely surveyed by security forces. Second, the route between Melilla and Morocco developed both through the difference in tariffs and the difference in availability of some European products in Morocco, particularly in the 70s and 80s. The goods are usually shipped into Melilla, and stored in large warehouses near the Beni Ensar and Barrio Chino border crossings. There, they are rolled into large bundles, which are carried through the border crossings on foot, while some larger goods are being brought across in cars. On the Moroccan side, the goods are packed into vans and then sold in

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<sup>25</sup> The 'Oriental' as a region is a relatively new administrative creation and did not exist at the time that this section describes, however I here discuss the geographic area that is today's 'Oriental'.

markets and stores across the country. Their main goods traded here are clothes, fabrics, and packaged foodstuff such as sodas, cookies, chocolate, oil, etc. There is a third route that is not the focus of this paper, but has played a central role in the Northern Borderlands as well – this primarily concerns the trade in illicit goods, first and foremost in narcotics. Morocco is the largest producer of cannabis in the world, and production in the northern Rif mountain chain has been more or less tolerated by the state for decades. For years, this would leave Morocco on speedboats to Spain and France – the use of boats seems to have decreased a little bit in recent years, but the trade itself is still highly active, both towards Europe, and East towards Algeria, Tunisia, and the Mashreq. Morocco has also been for years a key transitory country for cocaine, which is usually transported from Latin America to West Africa and then brought North towards Europe through Morocco, or more recently, Libya. Finally, Morocco has also been an importer and consumer of narcotics, in particular synthetic drugs coming in from Algeria and Europe (in particular Belgium), such as ecstasy, and most prominently a set of benzodiazepines known colloquially as ‘karkoubi’.<sup>26</sup>

In a similar fashion as in Tunisia, the trade routes that became routinized since the 1970s have become regulated through a complex set of co-created institutions. Here, too, they are usually, though not always, unwritten. They are usually in opposition to the formal Moroccan law, though agents of the Moroccan state are directly involved in their negotiation and enforcement. While some of them are quite personalised, some of them are largely impersonal. I will present two examples, one from the Algerian, and one from the Spanish border.

Informal trade across the borders of Spain’s enclaves in Northern Morocco is perhaps the most visual counterexample against the idea that smuggling always exits ‘in the shadows’ or ‘under the radar of the state’. Particularly since the creation of a large border fence, all informal trade in licit goods is conducted through highly monitored border crossings, particularly the Beni Ensar crossing, which is primarily used by cars and more ‘independent’ traders carrying goods across, and the Barrio Chino crossing, which is largely used by those traders carrying goods across for some of the larger bosses. Trade here is highly structured and regulated. Following multiple incidents where traders had gotten injured and killed in the huge crowd pushing through the small border crossings, the Spanish police started playing a larger role in regulating the traffic of the carriers, which is helped by the fact that

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<sup>26</sup> Interview, High Official in Customs, Oujda, 04/05/2017

while in Spanish territory, the traders are not yet breaking the law. Now, people are standing in lines near the Barrio Chino crossing, organised by the Spanish police, as they receive pre-packed bundles of goods from trucks, and then carry or roll them through a special lane at the border-crossing that is marked with special signs showing a silhouette of a man and a woman carrying heavy bundles. The bundles are usually marked with numbers and symbols that signify the owner of the goods, and typically the carriers will also receive a 'ticket' that identifies the goods and the owner. The tickets and the writing on the bundles fulfil two functions: one, to identify the goods and carrying to the Moroccan customs officers as belonging to a network that has already paid the necessary levels of bribes to them directly, and hence to not have to pay them again. And two, to identify them to the transporters on the other side of the borders, who pay them for their services and take over the goods to load them on cars with which they are distributed throughout Morocco. The entire process is closely overseen by Customs agents and security services on the Moroccan side, and only occurs at fixed times, usually for 4-5 hours in the mornings, in order not to overwhelm the traffic in Melilla. The bribe levels are negotiated between the heads of networks and the customs units, and differ between larger networks and smaller groups or individual traders, particularly those who trade through the Beni Ensar crossing.

The border with Algeria provided a rather different geography, and during the time period after the closing of the official crossing points in 1994, and before the increase in security infrastructure in 2015, had a variety of different informal crossing points the use of some of which was rotating, while others were more permanently established. Again, the crossing was closely monitored by security forces from both sides, and as in the Tunisian case, arrangements existed that included local traders into the security infrastructure as informants and monitors of the border. Some of the largest crossing points around Beni Drar would allow whole busses full of goods to come through, while smaller crossings around Oujda would usually be crossed by smaller cars or donkeys. While the crossing at Beni Drar used to be open during the day as well, many of the other informal crossings, literal gates in a fence, were only open at night, however, they typically had very clearly established and communicated opening times, such as 8pm to 2am. These crossings would typically be opened by the local security forces, and soldiers would monitor the goods that came through. Bribes would commonly be paid to both Algerian and Moroccan security services, who cooperated closely, and would usually depend on goods and quantity. However, from



2010 on, soldiers stopped taking bribes for the informal trade of the vast majority of products, a decision that many of the local traders believed came ‘from the very top’, however, the trade continued.

As in Tunisia, licit goods from both routes are typically sold in increasingly formalised markets in Oujda and Nador – in both cases, local government frames the issue of these markets as an issue of formalising street-vendors and informal markets in order to clear up the streets and improve public infrastructure, the origin of the goods is never problematized. Oujda, for example, has recently built a new market structure officially called “Souk Melilla”.

As in Tunisia, these institutions have channelled rents to different segments of local populations through informal employment, in particular young men from rural border communities which otherwise are still largely engaged in subsistence agriculture, as well as to consumers across the country by providing goods at lower prices. Again, as in Tunisia, there are small rent incomes that find their way into local budgets through the taxation of markets and legal innovations such as the “commercial use of public space”, while significantly larger rent streams go into private pockets within customs and the security services. While there are rumours about the involvement of elites close to the palace in the trade in illicit goods, there are less observable instances of politically connected elites from the centre getting involved in the informal trade locally, or building connections to co-opt rent streams. However, as will be discussed more fully below, there are examples of successful traders then transitioning into politics.

## 8. Smuggling in Northern Morocco – Shock and Transition

I ended the description of the Tunisian case above with the conclusion that the rent streams from Tunisia’s Southern border are a fundamental part of the larger structure of rents and income streams that maintain stability in the country, and that any action, for example on the Libyan side, to restrict this trade, poses severe risks for the Tunisian state. The brief outline of the situation in Morocco has served to outline the many parallels between the situation in the two countries, the state involvement in the institutional regulation of the trade, the centrality of the rents to the local political structure, and the absence of much of a

formal economic alternative in the borderlands. Morocco, too, has shown itself very aware of the necessity of the continuation of the trade in its borderlands to maintain social peace in its North and North-East: the state's toleration of economic informality has been framed in these terms by many of the officials interviewed here, the accommodating position by the armed forces suggests a tolerance from a high level within the state structure, and a brief attempt in the 1980s to close the trade with Melilla was almost immediately reversed when protests broke out locally.

However, in 2015 Algeria began to dramatically increase its security infrastructure on the border to Morocco, including a large fence, and occasionally walling. Within months, the informal trade in most licit goods across that border – particularly the trade in gasoline, but also in iron, construction materials, milk powder, and dates – slowed down and then collapsed. Rents dried up, large sections of these networks found themselves unemployed with some thrown into serious poverty, especially younger men in the rural border regions that had retained no savings or job prospects in the formal sector. At the same time, the trade with Melilla was slowing down, and decreasing in importance and financial attractiveness. Based on the observations above, this should have presented a severe threat to the stability and social peace of Northern Morocco. However, in fact, nothing of the sort happened. There were few, and only small protests, no violence, no roadblocks, and no challenge whatsoever to state authority. When the Hirak protest movement in Hoceima began spreading across parts of Northern Morocco in 2016 and 2017, the areas most affected by the border closure remained quiet. The main reason for this lies in the fact that under the surface, quietly and step by step, the structure of the rent-distribution in the region had undergone a substantive transformation in the decade leading up to the border closure.

When Mohamed VI took over the throne from Hassan II in 1999, he took the opportunity to change his government's relationship with the Moroccan North entirely. While his father had openly despised and avoided the region, Mohamed VI visited regularly, and encouraged state investments. The key moment for Oujda was a speech given by the King in 2005, where he set up the "Agence de l'Oriental", a development association with an annual budget of 120 Million MD, and in the years that followed, a new hospital, roads, markets and train stations would emerge in Oujda, while Nador saw vast new touristic developments in the

'Marchica' project, infrastructure improvements, and is currently in the process of construction one of the largest ports in Africa. These investments increased once more in 2011, as the Moroccan government was worried about the contagion effects of the uprisings in Egypt and Tunisia. A discussion of the degree to which these projects will – or were ever intended to – foster sustainable development in the region, given the high levels of elite capture, lack of a coherent labour strategy, or the absence of the generation of private investment, would go far beyond the scope of this paper. What is important however is that formal rent-streams were re-directed towards the Oriental. These rent streams allowed certain elites to accumulate capital, and re-structure their businesses with a larger emphasis on capturing formal rents.

One of the symptoms of this re-structuring on an elite level has been that a significant amount of political positions in the Oriental in recent years have been filled by political newcomers, many of whom have a business background which is directly connected to informal trade, or connected to one of the sectors that cooperated closely with the informal trade networks, such as the real estate sector. Political positions then allowed key players to play benefit from the state development projects, either through state contracts, or through increased patronage, especially on a local level. Morocco's relatively lax approach to money laundry has also made it relatively easy for elite members of informal trade networks to re-structure their economic activities, and there has been some evidence that some of the development projects planned in Morocco's North-East, such as the 'Marchica' project, are specifically designed to provide investment opportunities for members of informal trade networks with large amounts of disposable capital.

The more mid-level informal traders, many of which have a small store in Oujda or Nador and have one or two employees, have not necessarily been able to benefit from the larger development projects in the region, but for them, too, their reliance on informal rent streams in the past years has decreased. This is largely a result of two trends. First, the creation of large state-built market structures in Oujda in recent years has given many of these traders a more solid infrastructure from which to operate and structure their businesses. But, more importantly, the fact that Morocco has signed multiple free trade agreements in the early 2000s, including with Turkey (2003), the US (2005), and, most importantly, with China (2016) has largely eliminated the price differences between the formally and informally imported products, leading many of the traders to switch to formal

supply routes, getting their goods from traders at the port of Casablanca. While both the Souk Melilla and the Souk Fellah in Oujda were still known for smuggled goods, by the time the Algerian border became securitised in 2015, a large section of the vendors had already switched to formal supply chains. Of those who still maintained informal supply chains, many had outsourced the transport – the illegal part of the operation – to women from lower social classes. While these vendors did not tend to run for political office, they, too, expanded their connections to the formal political structure, by taking advantage of a state push towards creating associations. These trends left significant parts of the formerly informal trade networks in a position that allowed them some flexibility in managing the change in Algeria, as well as some connections that allowed them to negotiate and manage their position vis-à-vis the Moroccan state, which, in turn, tried to take a very lax attitude towards tax collection and law enforcement in the region – most of the traders in the markets named above to this day do not have a licence, or pay any taxes. Still, they are left in a weaker economic position than they had been in the early 2000s, when (informally imported) goods from the North-East still maintained a competitive advantage over goods from the economic centre – with less and less people from the centre coming to the North-East to supply themselves with cheap goods, demand is depressed, leaving many of the stores in Oujda’s formalised markets to run a deficit.

Still, the main effect of the border closure was felt by communities that lived in the immediate proximity of the border, communities that had traditionally been engaged in subsistence agriculture, and had largely been involved in the gasoline trade since the 1970s. With their rather isolated geographical position, low educational status and focus on a part of informal trade that did not necessitate or facilitate the building up of strong connections to important formal or informal actors, they were unable to build alliances with other networks that would have enabled them to exert more political pressure as a result of their rent streams being cut off. Their organisational power – to use Khan’s term – was incredibly weak. The vast majority of the members of these networks had also retained very limited savings and no infrastructure outside of agriculture that would enabled them to readjust more easily to the new situation. They, too, found themselves receiving aid from the state, however this was in the form of a “Urgency Programme for the Borderlands” which

consisted of the donation of a very limited supply of livestock. Many families that had been part of a booming border economy in 2007 were struggling to avoid starvation by 2017.

## 9. The Political Settlements of Informal Trade in the Maghreb

From a Political Settlement Perspective, both Morocco and Tunisia have had clientelist political settlements that have shaped their post-independence institutional makeup. To quote Khan, a clientelist political settlement emerges “when significant holding power is based on sources outside the incomes generated by formal institutions” (53). In both cases, there was an uneven geographic spread to the distribution between formal and informal rent and income streams, with a majority of the formal income streams concentrated in the political and economic centre – Tunis and the Sahel in Tunisia; Rabat, Casablanca and Marrakech in Morocco. In both cases, this was closely connected to the geographic history of colonialism, the position of key post-independence elites, and political conflicts such as the Rif Revolts and the conflict between Bourguiba and Ben Youssef. Nevertheless, Political Settlement Theory importantly highlights that the income streams that developed in the periphery, which were largely based around informal activities, were still a necessary part of the post-independence political settlement, as they were necessary to bring the balance the income in line with the balance of power, in a way that formal economic policy was unable to do. In the simplest form, this cheaply assured the stability in the periphery that the centre needed, and, in some parts still does today.

Much has been written of the idea of the “Authoritarian Bargain” in the Middle East and North Africa, the idea that there has been for a large part of the region’s modern history a “sort of implicit deal between authoritarian regimes and politically significant groups to provide them with well compensated jobs in the bureaucracy and the security forces, among other privileges such as access to subsidized commodities, housing and services, in exchange for political quiescence, if not loyalty” (Assaad 2014, 2). In fact, there has been in many of the countries of the region a second such deal, an “Informal Authoritarian Bargain” between authoritarian regimes and groups in the periphery to provide them with the opportunity to generate rents, jobs and access through subsidised products through activities that do not

adhere to the law, in exchange for political quiescence and security cooperation. It is important to note that here, too, the state has been an active player in the crafting and structuring of the institutions that govern these streams, using them not just to pacify the geographic and economic periphery, but also to channel rents to selected economic elites, or to the most powerful players within the state apparatus – the security services. It is also important to highlight that engrained within this bargain has always been an element of structural violence, as the role that security forces have played in this system has led to countless casualties amongst informal traders.

A political settlement reading of informal trade in the Maghreb hence does not support the common claim that it ‘undermines the state’, on the contrary, it shows it is a central part of the institutional structure on which the state itself rests. It also does not support the claim that the Tunisian or Moroccan state is being ‘remade’ at the border, as it highlights the strong effect that dynamics from the political centre have had on the borderland’s development. In fact, the dynamics in both Morocco and Tunisia in the past years both share a centralising effect – in Tunisia, through the increasing influence of the security forces, and in Morocco through the increasing importance of rents that are more easily directed from within the political centre.

A political settlement reading of informal trade in the Maghreb also provides an argument against one of the most popular claims about informal trade in the region, namely that it is primarily caused by corruption, and that anti-corruption programmes among the police and customs are the most effective ways of fighting informal trade. In fact, from the perspective of this paper, corruption is a side-effect, not a cause of informal trade, it is one of the mechanisms that facilitate the institutions that structure informal trade, not the reason for their existence, which is more directly connected to the stability of the political settlement. Striking evidence for this is provided by the fact that the Moroccan state actually managed to enforce an agreement where soldiers take no bribes at all, while still overseeing informal trade. This perspective also provides a powerful explanation for the continuity of informal trade in the region, its persistence and ability to adapt to change, to survive countless proudly proclaimed ‘crackdowns’, anti-corruption campaigns, border walls and civil wars – not because it is so well hidden, but because it is fundamental.

It is also interesting that from a political settlement analysis – and a close reading of local institutions – the two more recent events in Tunisia and Morocco take on a very different flavour. The hectic events in Tunisia’s South, which from the amount of smoke and newspaper headlines looked like fundamental transformation has largely been the two sides reacting to a mismatch between the institutional status quo and the balance of power. As Khan writes: “Conflicts are likely to break out either when a group believes that the underlying distribution of power has changed and the distribution of benefits is not reflecting it, or if changes in distributions of benefits do not reflect the perceived distribution of power” (2010, 7). So while Tunisia has seen conflict, it has not seen transformation. Morocco, on the other hand, has seen a fundamental restructuring of rent streams alongside intense co-optation that has changed both the institutional structure and the power balance in a way that stability can be maintained with a significantly lower amount of rents from informal trade.

However, one of the key distinctions that PST makes is also that a stable political settlement is not necessarily a developmental one. While informal trade networks may have contributed to stability, there is still a significant argument to be made that they have harmed development. Here, the most commonly cited reason, namely that it weakens the state tax base, does not strike me as the most fundamental problem. I would highlight three other issues. First, while informal trade has created accumulations of capital, very few of these have gone into projects that have any kind of developmental impact or knock-on effects. Due to lack of knowledge, lack of cooperation, trust and investment infrastructure, the vast majority of accumulated capital that is invested outside of the informal trade networks themselves goes into cafes, hotels and real estate – no factories, not even small workshops, no productive activities. Second, while the trade has created opportunities for accumulation, it has created a highly unequal distribution of resources and opportunities. Social mobility is often more directly connected to willingness to take risks than with talent or hard work. This has created an environment of existential insecurity, but also one where the chief ‘barons of industry’, the patrons, are a lot less connected to the rest of their networks than is often assumed. When the border with Algeria closed in Morocco, there was little solidarity between the old bosses and their transporters, as one group started buying hotels while the other fought off starvation.

And third, informal trade has created an economic environment in the borderlands in which education is not encouraged. This has motivated huge numbers of young men in those regions to quit school at an early age in order to work at the border. I remember one of the larger traders in Ben Guerdane showing me his account book, to demonstrate the childlike handwriting of his drivers. “My generation,” he sighed, “they have no future if the border closes.”<sup>27</sup> Not just his generation, but the following generation as well will be incredibly hard to integrate into any other labour market. A more complete discussion of this issue goes far beyond the scope of this paper, however, it can be said that the type of economic structures that have been created by the “Informal Authoritarian Bargain” have not created conditions that are beneficial to sustainable development in the border regions, and while the blame for that is commonly placed with the smugglers, one could also seek it with the authoritarian. To put it more distinctly: the borderlands have not undermined the state – the state has undermined the borderlands.

The trade-off between growth and stability stands at the heart of political settlement theory, in particular in its formulation by Mushtaq Khan, as the ability of a government to enact growth-enhancing reforms depends on the underlying political settlement and distribution of power. Political Settlement Theory could therefore provide an important reality check for states’ reform plans with respect to CBT. Drawing on Khan (2010, 37), a key suggestion would include to keep in mind the feasibility of certain reforms under the given political settlement, and to consider alternative ways of including key groups by allowing them to share in some of the benefits of the transformation, rather than aiming for a confrontation. An incremental approach focussing on specific institutional changes also typically faces less resistance than larger reforms that can more easily provoke wider coalitions of resistance. It is also important to consider that even if a rent stream is not considered legitimate, legal or appropriate by a state or a society, it may still be crucial for a certain group’s participation in this society, at least until an alternative is created. The literature of PST has produced a vast number of case studies on developmental and non-developmental transformations which will likely prove to be highly productive in a more active application to a borderland setting.

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<sup>27</sup> Interview Large-Scale Trader, Ben Guerdane, 10.09.2014



## 10. Concluding Remarks and Lived Political Settlements

This essay has aimed to demonstrate that Political Settlement is a powerful tool to analyse the relationship between states and informal trade structures, and that it can generate interesting new hypotheses and approaches which challenge much of the mainstream literature on the topic. Building on detailed fieldwork from Morocco and Tunisia, I have highlighted how PST can draw out the important role that rents from informal cross-border trade can play in supporting the stability of wider political settlements, while they may at the same time not be strictly developmental. A PST approach can demonstrate that informal trade has not been peripheral, but a crucial part of the story of post-independence state-building in the Maghreb, without romanticising its role, or excluding the fact that the way in which this settlement developed was still largely shaped through political dynamics that emanated from the centre.

Before concluding however, I want to highlight a few aspects that I believe this analysis can contribute to Political Settlement Theory more widely. As mentioned in the beginning, there have so far been very few in-depth case studies of the role of informal and illegal economies in political settlements, particularly in relatively stable states, and outside the war economies literature. As the analysis above has shown, there are currently significant challenges for political settlement theory, as for much of mainstream political economy, to conceptualise the precise nature of many of the institutions that play a crucial role in governing and structuring informal trade. As discussed above, some of the crucial institutions in both case studies do not fit the classic concept of the “informal institution” which is supposed to be crucial in governing informal rent streams. Not only are state agents involved in third party enforcement of what I have called co-created institutions, but more crucially, they institutions are not always personalised, a feature that Khan identifies as one of the key characteristics of informal institutions: “An important characteristic of all informal institutions is that there is no necessity that these rules are generally followed or are applicable to all individuals of the same category. By definition, while most or all formal institutions are impersonal, informal institutions are never impersonal” (2010, 12). This goes hand in hand with a common conception of the governance of informal structures – because they are inherently personalised – as ‘pyramids’ of patron-client relationships, which tends

to neglect the role of rules and codified patterns of behaviour within the informal realm. More detailed attention to these institutions highlight that many people are primarily included in clientelistic political settlements through co-created institutions, not through patron-client relationships. The gasoline transporters in Morocco for example did indeed have bosses, patrons, however, the element of the settlement that was crucial to them was the institution that allowed them to trade at the border, while their patron had no use for them whatsoever the second that institution disappeared. This could also provide further texture to the developing literature on two-level political settlements, in which local elites are still commonly seen as the crucial actors “delivering” local populations to a political settlement, while institutions that can be shaped by central actors directly can play a crucial role. There is, more widely, significant space for scholarship on borderlands in order to explore the geography of political settlements, both with respect to the relationship between sub-national and national actors, but also with respect to political settlements across borders. The political settlement in Tunisia, for example, has been inherently dependent on a political settlement in Southern Libya that tolerates the ongoing existence of this trade, while at the same time border towns such as Ben Guerdane are part of political settlements within borderlands, based on tribal alliances and rivalries, which at the same time connect to national political settlements. The PST literature currently severely lacks the vocabulary and theory of territorial politics to help clarify the relationships between these levels.

This also throws a larger focus of the micro-dynamics of different groups and their ability to adjust to changing political settlements. In both cases studied, fabric traders, commonly more middle-class, more urban in the Moroccan case, and typically with a wider network of connections and a higher likelihood to form and be represented in associations, fared better throughout the changing political settlements than the gasoline traders. A more detailed analysis of this dynamic would go beyond the scope of this paper, but is deeply rooted in the ability of groups on a local level not just to mobilise power in order to affect institutional transformation, but also to mobilise power in order to survive and adapt to institutional transformation.

A focus on the role of institutions in including groups in the periphery of political settlements also throws up the questions of exclusion within a political settlement – if even informal

traders in the periphery Southern Tunisia were included in the post-independence political settlement, what does it mean to be excluded? Or, to put it in a different way, on who's terms are you included, and what does an adverse incorporation in a political settlement look like? While the study of political settlements is traditionally largely a macro-level analysis of political and economic structures, it could benefit from a more micro-level exploration of what I would call "lived political settlements", to look more precisely at local class, group and gender dynamics within existing and changing settlements, the mechanisms of inclusion and exclusion, the relationship between inclusion and the ability to shape a settlement, the power to include – and exclude – oneself. In an age when an increasing number of the residents of the borderlands discussed in this article has decided to extract themselves from the settlement they have been living in – either through illegal emigration or by joining the Islamic State and other groups fighting in Syria and Iraq – it would surely be fascinating to see if a more micro-level political settlement approach can generate deeper and more fine-grained insights into these dynamics than the arguments discussed in this paper.

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