

The London School of Economics and Political Science

Smugglers and States:

Illegal Trade in the Political Settlements of North Africa

Max Gallien

A thesis submitted to the Department of International
Development of the London School of Economics for the
degree of Doctor of Philosophy,
London, January 2020

Declaration

I certify that the thesis I have presented for examination for the PhD degree of the London School of Economics and Political Science is solely my own work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it).

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Statement of Inclusion of Previous Work

I can confirm that small parts of this dissertation, primarily in Chapter 6 and Chapter 8, rely on interview data that was generated in the context of previous study for an MPhil in Modern Middle Eastern Studies that I undertook at the University of Oxford, but which has so far been unpublished.

I can confirm that parts of Chapter 5 have been published in the context of a single-authored article in *Perspectives on Politics*.

Abstract

This project explores the political economy of informal and illegal cross-border trade in North Africa, focusing in particular on Tunisia's border with Libya, and Morocco's North-East bordering Algeria and the Spanish enclave of Melilla. Based on extensive fieldwork, the project traces the informal institutions that regulate smuggling across the region, examines the resulting rent streams, and analyses their relationship to the region's states through a political settlement framework. Following shifts in the domestic politics of Tunisia and Morocco as well as the regional border infrastructure, the project also traces the recent re-negotiation of the role of smuggling in the region. It argues that contrary to common assumptions, smuggling rarely occurs 'under the radar' of the state, but is instead embedded in a tight network of institutional regulation in which the regions' states play a key role. Furthermore, rather than subverting states, smuggling activities are a central feature of the region's political settlements. The project highlights that the ability of different groups to navigate and negotiate the terms of their inclusion into these settlements is highly uneven, posing serious challenges for borderland populations.

To my parents, who 'made in books' long before I wrote one.

Acknowledgements

I wrote this book. Its flaws and limitations are mine. Its strengths are a result of the kindness and insight of the people and communities that helped me research and write it over the past four years. Many without whom this project would have been impossible, I am not able to name here. Some appear as anonymised sources in the following chapters; some do not. I will be forever in awe of people in the border communities of Tunisia and Morocco who gave me their time, their trust, their hospitality and their stories, and I hope that I have been able to do them justice. There are, however, some people I can name:

First and foremost, I would like to thank Kate Meagher, whose brilliance, precision and dedication consistently pushed me to dig deeper and think further, who had my back through all the challenges of this project, who taught me to be led by questions rather than academic fashion, whose sharp and constructive comments were invaluable throughout, and who, despite her best efforts, has not been fully able to exorcise my tendency towards obnoxiously long sentences. I am most grateful that I got to learn to be a scholar with her as a role model nearby.

At the LSE, I would like to thank John Sidel, whose work on local power has been an inspiration, who came on as a second supervisor and provided great perspective and comments along the way. I would like to thank Susan Hoult, Rose Harris and Nina Craven for their support, Catherine Boone and Moritz Schmoll for their helpful comments and advice. The community of PhD students at LSE has been a constant source of solidarity and inspiration. Portia Roelofs' advice and example have been invaluable, Nicolai Schulz' enthusiasm for political settlements was infectious, and Florian Weigand's unshakeable calm has been a blessing. It was a pleasure to learn from Guoer, Allison, Konstantinos, Michael and Kara. Valentina Zagaria shared invaluable feedback, her hospitality in Zarzis, and the experience of being found suspect by the police of Ben Guerdane. I would also like to thank LSE Health and Safety for their support throughout this project.

I am also grateful to George Joffe, Thomas Hüsken, Matt Herbert and Ferdinand Eibl, who provided valuable advice, insight and feedback. I would also like to thank Melissa Leach and Mick Moore at IDS for giving me the time I needed to finish this project.

This endeavour started its life in an MPhil programme at Oxford University's Middle East Centre. Here, I am deeply indebted to Adeel Malik and Michael Willis, who not only provided this project with encouragement, inspiration and advice but have also since shown excessive kindness in their support for me as a student and a scholar. I am incredibly grateful for the teaching and advice of Noa Schonmann, whose enthusiasm as a teacher and a scholar was the reason why I started studying the region in which this project is set, and who has been a role model throughout. Of a hugely inspiring MPhil cohort, I am particularly grateful for the camaraderie of Maria Bruckmann, Jennifer Ruth Shutek, Anna Jacobs and Megan O'Donnell, who provided feedback, advice, and endless moral support.

In Tunisia, I am most indebted to Mohamed in Ben Guerdane, for his fantastic translation, his patience and trust, his driving and part-time bodyguarding skills, for his insight and perspective. I am also grateful for the support and advice of two CEMAT legends, Larry Michalak and Laryssa Chomiak, and for the inspiration provided by the team and participants of the Tunis Exchange.

In Morocco, I am particularly indebted to Jaouad and Mawya, not merely for their translation, but also the engagement, heart and care that they brought to the project, for the enthusiasm with which they showed me their Oujda, and their fantastic work throughout. I am also grateful for everyone in Oujda who took me in and offered me their perspective, particularly Isabelle, the Znasni boys, Soumia, Larbi and Ute. In Nador, my particular thanks go to Fouad Maachi and the team at ATPE, and in Melilla to Laia Soto.

I was fortunate during this project to have spent some time as a visiting scholar at the Hilary Clinton Centre for Women's Empowerment at Al-Akhawayn University Ifrane in Morocco, and at the German Institute for International and Security Affairs (SWP) in Berlin. I am very grateful to both institutions for their support. At AUI, I would particularly like to thank Doris Gray, Katja Žvan Elliott, and the team of Presidential Interns. At the SWP, I would like to thank Isabelle Werenfels for her endless faith, support, and kindness, as well as Stephan Roll, Luca Mieke, Wolfram Lacher, Jürgen Rogalski, Barbara Heckl, and the entire wonderful and brilliant team of the FG06.

I acknowledge and am grateful for the financial support of the Economic and Social Research Council, who funded my studentship, fieldwork, language training and overseas institutional visits. I am also grateful to the British Society for Middle Eastern Studies, who awarded me the Abdullah Al Mubarak Al Sabah Foundation prize, which further supported my fieldwork.

I would like to thank the staff at The Elgin in Maida Vale, where most of this book was written, the Backwood Café in Brighton, where it was finished, and whoever found my laptop after I'd left it in the Earl of Lonsdale Pub in Notting Hill after a long evening. I am beyond grateful to Whittard of Chelsea for their marvellous Milk Oolong tea, without which the sustained focus that this project required would have been impossible.

These have been long, and not always easy years. I am deeply indebted to all of you who stuck with me, put up with me, and had my back. Andy, Varshini, Safa, Sandhya, my parents Andrea and Martin, and my brother Oskar. You know what you did. Thank you.

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List of Abbreviations

BAT	Brigade Antiterrorisme (Tunisia)
DfID	UK Government Department for International Development
FCO	UK Government Foreign and Commonwealth Office
ICBT	Informal Cross-Border Trade
IFI	International Financial Institutions
INDH	Initiative Nationale pour le Développement Humain (Morocco)
IPSIE	Impuesto sobre la Producción, los Servicios y la Importación (Melilla)
IS / ISIS	Islamic State / Islamic State in Iraq and Syria
LSE	London School of Economics and Political Science
NGO	Non-Governmental Organisation
NIE	New Institutional Economics
ODECO	Office du Développement de Coopération (Morocco)
ONE	Office National de l'Électricité (Morocco)
OTLB	Organisation of Tunisian Libyan Brotherhood (Tunisia)
PAM	Parti Authenticité et Modernité (Morocco)
SME	Small- and Medium Enterprise
UNCTAD	United Nations Conference on Trade and Development
USIP	United States Institute of Peace

Transliteration of Arabic in this dissertation has been based on the transliteration guidelines of the International Journal of Middle Eastern Studies, unless different but frequently used local transliteration variants were available.

Chapter 1: Introduction

1.1 Introduction

“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 striking 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 words¹ are similar.”

Mehdi Jomaa, Prime Minister of Tunisia, speech in 2014

In the summer of 2014, I was sitting on the visitor’s platform of the Tunisian Constituent Assembly in Tunis, watching as delegates voted to increase punishments for smuggling goods across Tunisia’s land borders. Many of the statements in the debate mirrored those in the quote above: the ‘fight’ against smuggling had become a common talking point in post-revolutionary Tunisia, frequently connected to concerns about porous borders, and a conception of smuggling as a fundamental attack on the stability and sovereignty of the state. In a conversation afterwards, an MP from Tunisia’s borderlands with Algeria described the practice as “economic terrorism”.

Just a few weeks later, I was sitting in the town hall of Ben Guerdane, a city in Tunisia’s southern borderlands, and the country’s most well-known smuggling hub. Proudly, the municipality’s secretary-general described a new agreement on stall fees that he had reached with the vendors of the local market. And yet, all the vendors in the market were informal cross-border traders, every good sold in the market had been smuggled into the country. The harsh punishments mandated in Tunis seemed far away now – the market even has a small built-in police station, which protects and serves the traders there, rather than investigating them.

Moreover, markets were not the only place where Ben Guerdane’s smugglers encountered a regulatory environment that involved the state. As they made their way across the border crossing into Tunisia, outside of the formal customs agreements, bribes were not paid randomly, but largely in accordance with an informal agreement

¹ Jomaa refers to the words for smuggling (tahrīb) and terrorism (irhāb). While they contain the same three consonants, they stem from entirely different linguistic roots and are not etymologically related.

with state officials, specifying the quantity and types of goods that could be smuggled, and their costs. The agreement was negotiated between local smugglers, civil society actors – and representatives of the Tunisian state. On the ground, the regulation, governance and negotiation of the smuggling economy with the participation of state agents stood in sharp contrast to the rhetoric of crackdowns, and the reputation of the city as a “wild west town” (Prentis 2018).

Further west, the border between Morocco and the Spanish enclave of Melilla provides an even more striking example. Every day, thousands of informal traders push through the small iron turnstiles of the border-crossing, carrying heavy bundles of goods across the border without paying formal tariffs, and having earned the crossing the reputation as a “zone of lawlessness” (McMurray 2001). But here, too, a closer examination reveals structures of regulation, and the involvement of state agents: it includes queues of carriers organised by the police, systems of numbers and symbols on the bundles of goods, and even small printed tickets that indicate the ownership of smuggled goods, and let customs officials know that the necessary bribes have been paid. Perhaps the best indications of how institutionalised the trade is at this border crossing are the signs over some of the lanes through the turnstiles. They show the silhouettes of a man and a woman carrying a heavy bundle of goods, signalling: ‘smugglers go here’.

As this dissertation will highlight, these examples are far from unusual. Its enquiry begins with the observation of smuggling in North Africa as an economic activity that is regulated, and, moreover, that its regulation, governance and negotiation is much more closely connected to the state than both common perceptions and the political rhetoric cited above frequently suggest. This observation is of course not entirely new², nor is it intended as a pedantic or sensationalising corrective to common accounts, to highlight hypocrisy, corruption or contradictions in the discourse of the governments in question. Instead, as this dissertation aims to demonstrate, an analysis of the real regulation of smuggling provides a productive entry point into its politics. Recognising that smuggling is in fact regulated points the focus towards its structures, and away from common explanatory models around individual instances of corruption and ‘bad governance’. It helps structure discussions into the powers and pressures of the actors involved, its historical continuities and recent changes.

² Chapter 2 will discuss this more systematically.

Crucially, the selective toleration and regulation of smuggling by state agents shape into an empirical question what the quote above from Prime Minister Jomaa presupposed as simple antagonism: the relationship between smuggling and state-building. This is the central interest of this dissertation. The scope of this topic means that it could be approached from a variety of angles, tracing the historical co-development of the two phenomena (Andreas 2014; Laroussi 2007), their interaction in contexts of fragile statehood (Ahmad 2017; Goodhand and Mansfield 2010) or focusing on the politics of modern industries of border control (Andersson 2014; Andreas 2009). This dissertation seeks to examine the relationship between smuggling and state-building through its regulatory and distributional politics. Its analysis of state-building, therefore, does not primarily refer to historical processes of state formation, but the continuous ways in which modern states engage with borderland populations and smuggling networks.

Conceptually, this thesis relies on recent scholarship on political settlements in the political economy of development, popularised by Khan (2009; 2010), Gray (2018; 2016) and Whitfield et al. (2015), among others. Political settlement analysis examines the institutional arrangements that determine the distribution of resources in a given political system and holds that the coherence between this distribution of resources and the distribution of power between groups is a fundamental determinant of institutional performance, stability and development. Rather than framing illicit economies and the informal institutions that regulate them as *a priori* antithetical to state-building, political settlement analysis examines their effects as dependent on what kind of rents emerge from these institutions, and how these are distributed. It highlights that informal rent streams can be stabilising if they contribute to a distribution of resources that motivates relevant groups to support the wider political settlement.

Even though it has so far only very sparsely been applied to illegal economies, as this dissertation seeks to demonstrate, a political settlement approach to the study of smuggling can be highly productive. Its framework allows to build on the regulation of smuggling noted above as an entry point to its wider political economy, by examining the rent streams generated through it. Its analysis of the role of informal rent streams in the distribution of power and resources and thereby of the overall formal and informal institutional structure allows to directly relate insights about

smuggling regulation and rents to wider questions about state-building. Rather than pathologizing or romanticising smuggling, a political settlement approach also helps to structure the study of changing settlements, and of how different smuggling networks seek to influence and negotiate the institutional structure under which they operate.

From this theoretical framework then emerge the central building blocks of this dissertation's analysis: the (formal and informal) institutional arrangements that regulate smuggling, the rents generated by it, the distribution of resources between various actors, and its negotiation and change. These elements also structure its research questions.

1.2 Research Questions

The dissertation's primary research question is:

Does informal cross-border trade undermine states or contribute to alternative forms of state-building?

This question can be disaggregated into three sub-questions relating to institutions, rents and state-building.

What kind of institutions regulate informal trade, and how do they relate to formal state institutions? This question seeks to understand the regulatory environment in which smuggling networks operate. The forms and features of the institutions involved provide an entry point to tracing the resulting rent streams and are a natural focal point for negotiations between state structures and smuggling networks. Moreover, the nature of state involvement in this regulation itself gives first indications into their relationship with smuggling economies.

Which rents emerge from cross-border trade and its institutional environment, and what is their relationship to wider political settlements? This question asks which groups and structures benefit from smuggling rents and examines their relationship to the wider political settlement. Do these rents represent an informal mode of incorporation into the settlement or an incentive to undermine it? How have rents and regulation changed over time, how do they relate to changes in the wider political settlement, and how are they negotiated?

What are the implications of these dynamics for state-building? Finally, this question seeks to deepen the discussion of the role of smuggling in political settlements by asking which forms of state-building these dynamics are giving rise to. Are they giving rise to more authentic, locally rooted and inclusive forms of state-building in the borderlands, or further trapping peripheral communities in vulnerable livelihoods and alienating them from state institutions? How are these dynamics changing as the states in the region are themselves changing in the wake of revolutions and reforms, free trade agreements and increasing global concerns about porous borders in the context of migration and terrorism?

1.3 North Africa's Porous Borders

This dissertation's analysis focuses on the smuggling economies of Tunisia and Morocco. Rather than relying on contexts of conflict or areas of limited statehood, it draws on two states that have seen stable political settlements in much of their post-independence era. However, both countries have in recent years seen re-negotiations of both their wider political settlements and the role of smuggling economies within them. While these re-negotiations provide an ideal opportunity to observe the mechanics of the politics of smuggling, what has been particularly instructive has been the contrast in contexts: in Tunisia, a revolution in 2011 set off a restructuring of the country's politics, while in Morocco these changes have been characterised by top-down reforms. Crucially, both case studies lie in North Africa, a region in which there has been both comparatively little academic scholarship on smuggling and increasing public and political attention to the issue.

North Africa today is home to a large and diverse smuggling economy. The oil wealth of Algeria and Libya and resulting price differences have given rise to extensive fuel smuggling economies, with estimations suggesting that in 2014, 17% of Tunisia's entire domestic fuel consumption was covered by contraband gasoline from Libya (World Bank 2017). Variation in tariff and subsidy regimes have fuelled the informal trade of a vast array of consumer goods ranging from tea to make-up to textiles (Ayadi et al. 2013). Other networks trade in illicit goods – both as a production hub of cannabis and a transit space for cocaine, the region has become increasingly central to the global drugs trade, while the wars in Libya and Mali have provided both demand

and supply for the smuggling of arms and military equipment (Kartas 2013; Blickman 2017; Inkyfada 2017; Micallef 2019).

A series of events in the last decade has increasingly brought smuggling to the forefront of public debates within and outside of the region. The global war on terror and the wider effects of the conflicts in Libya, Mali, Syria and Iraq alongside increasing international concerns around migration all have pushed ‘porous borders’ in North Africa onto the agenda of politicians and policymakers. As a consequence, both the states in the region and the international donor community have invested heavily in new border infrastructure in the region. It is interesting to observe how, building on strong assumptions around the role of border control in sustaining state sovereignty, communities who were previously framed as politically peripheral are now being positioned in a much more central role, as capable of striking the state at its very heart, of undermining its institutions by subverting its boundaries.

The 2011 protest movements in the region, commonly referred to as the “Arab Spring”, not only led to the downfall of regimes in Tunisia, Libya and Egypt, but also highlighted regional and structural inequalities within North African countries. Typically, these affected border communities disproportionately. Youth unemployment and informal employment, both of which have been at the centre of recent discussions about the region’s crumbling social contracts, is commonly higher in the region’s borderlands than in the political centre.³ When Tunisia’s post-revolutionary transitional justice process became the first such process that allowed entire regions to file as victims of the previous authoritarian regime, Kasserine, a border region in the country’s North-West, became one of the first to do so (Advocats Sans Frontières 2015). Consequentially, recent years have brought back into question the territorial politics of North Africa’s countries, and how peripheral communities are really included in the region’s politics and changing social contracts.

Connected to this has been the fact that borderland populations have been over-represented among the people leaving North Africa both for the battlefields of Syria and Iraq and the boats to Europe. Many of the young men that join the Islamic State come from North Africa’s borderlands, particularly Southern Tunisia (The Soufan Group 2015). At the same time, many of the Tunisians that made up the surge in

³ For Tunisia see World Bank (2014), for Morocco Vishwanath et al. (2012).

irregular migration in 2017 were from the country's southern border regions (Gallien and Herbert 2017), while legal and irregular migration has been a central part of economic livelihoods in Morocco's North-Eastern borderlands for decades. Consequently, as discussions about security and development in North Africa increasingly engage with the interconnectedness of crumbling social contracts, economic marginalisation, radicalisation and insecurity, borderlands are increasingly noted as spaces where these connections are heightened, and of additional urgency.

All these aspects point to the importance of re-examining the relationship between smuggling, states and borderland communities in North Africa in the 21st century. A detailed account of the political economy of the region's borderlands and smuggling economies can provide a more grounded analysis of the sudden centrality of the region's peripheries and situate recent dynamics within larger structures. Crucially, examining the role of borderlands and smuggling economies in the region's political settlements also offers insights into wider themes in the modern political economy of North Africa that are heightened in these spaces, but not confined to them: dynamics of inequality and inclusion, changing social contracts, and the relationship between economic exclusion, radicalisation, instability and violence.

While Mehdi Jomaa, in the quote at the beginning of this chapter, gleefully points out that 'smuggling' and 'terrorism' sound similar in Arabic, a deeper understanding of power, profit and marginality on the border is needed to be able to judge the real relationships between these phenomena.

1.4 Contributions

By locating its cases in North Africa, this project aims to close a gap by expanding debates on African borderlands into a region which so far has been widely neglected. While there is a wealth of excellent recent studies on border economies in West (Chalfin 2001; Meagher 2014a; Nugent 2003; 2007; Tandia 2010; O. 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 2012; 2009; Titeca and Herdt 2010) to name just a few, there has been comparatively little research on borderlands and smuggling in North Africa. While

there are some notable exceptions to this scarcity⁴, primarily coming from ethnographic accounts, they are often relatively unconnected to the literature on African borderlands more widely and are entirely unconnected to the broader political economy literature in the region (Malik and Gallien forthcoming). This thesis aims to connect these fields of enquiry more effectively – to provide a missing piece both to the political economy of smuggling and to the political economy of North Africa in the post-2011 era.

Furthermore, this thesis aims to make a range of theoretical contributions to the study of informal institutions, political settlements and smuggling.

Through its analysis of the institutional regulation of smuggling, this thesis seeks to contribute to central discussions in institutional theory on the features of informal institutions, the type of regulation that they are able to provide, and their relationship to the state. In particular, it seeks to speak to the role of informal institutions in political settlements.

While its account of the role of informal institutions has been pointed to as the main contribution of political settlement analysis to modern political economy (Khan 2017, 2), there has been a notable scarcity of its empirical application to informal and illegal economies. The thesis not only aims to fill a gap in the coverage of political settlement scholarship, but also seeks to use its empirical material to probe some of the central tenets of the approach itself: its conception of inclusion, of territoriality, and of informality. While much political settlement scholarship, rooted in structural political economy, has had a noted top-down perspective and a focus on powerful elite actors (Parks and Cole 2010, 7), this dissertation aims to suggest the contributions that an analysis of the margins of settlements, and a bottom-up perspective can provide. In particular, it seeks to provide a better understanding of how actors engage with informal modes of incorporation, how they organise mobilise resources in order to affect settlements from below, and under which conditions they push for or benefit from formalisation.

⁴ The works of Meddeb (2012), Scheele (2012), and Soto (2015b) have been important points of reference for this project. A more systematic discussion of the literature relevant for this project will feature in Chapter 2.

Building on this, and perhaps most importantly, this dissertation aims to contribute to discussions in borderland studies and political science on the relationship between smugglers and states. It seeks to critically engage both with contemporary claims that states are being undermined at their borders, and arguments that African borderlands are sites of novel and more locally embedded state-re-making processes (Raeymaekers 2012b). In its discussion, this dissertation provides new empirical material and a comparative design to a literature that has largely been dominated by single case studies. More importantly, however, it seeks to use this material to relate existing discussions to a more structured political economy approach, which allows it to connect micro-level analyses of regulation to wider processes of state-building, distribution and control in the region, and examine recent shifts in North African politics from the perspective of its borderlands.

1.5 Chapter Overview

The remainder of this thesis is made up of ten chapters that can be divided into three sets.

The first set of chapters present the literature, empirical context, history and methodology of the project. **Chapter 2** introduces the terms of this thesis and the debates in which it is placed. It reviews key literatures on smuggling and state-building, political settlements, institutional regulation, inclusion and borderlands.

Chapter 3 provides an overview of the empirical context of smuggling in North Africa, the main flows of goods and their macrostructure. It reviews central themes in the historical development of smuggling economies in the region, situates the project's case sites within these structures and histories, and outlines why they provide a fitting context for the study of smuggling and state-building.

Chapter 4 then asks how meaningful research can be compiled in this setting, discussing the methods used in this project and exploring their validity, examining the challenges of tracing political settlements and informal cross-border trade and studying "hidden" populations and transactions. It notes the ethical and security challenges of the project, and what measures were taken to address them.

The second set of chapters explore the regulation of smuggling in North Africa, the actors involved in it, and the rents that are generated through smuggling economies and their regulation. These chapters draw on material from both case sites, as they explore similar dynamics, but highlight differences between networks within case sites.

Chapter 5 provides a detailed mapping of the regulation of smuggling activities at different borders in the Maghreb. The chapter highlights that these activities are largely regulated through informal institutions which have been negotiated between state and non-state actors. Upon examining these institutions, the chapter notes their divergence from common caricatures of informal institutions: many of them generate impersonal rather than personalistic access structures, and they commonly contain third party enforcement that is provided through state agents. While contemporary policy discourses frequently stress the ‘porosity’ of North Africa’s borders, this chapter highlights the degree to which this porosity is regulated, as informal institutions segment the routes of different goods and determine the volume of smuggled goods that passes through the borders, as well as their costs.

Chapter 6 continues the analysis of regulation, focussing on two additional aspects. First, it examines how the distribution of smuggled goods in the borderlands is regulated, tracing hybrid institutions that have allowed municipalities to tax the sale of smuggled goods. Furthermore, it examines the ways in which moral and religious conceptions have shaped how borderland populations engage with smuggling, pointing out how different elements of smuggling alongside evaluations of the state have affected local moral perceptions.

Chapter 7 begins to connect regulation to actors by tracing the rent streams that emerge from the institutions discussed in the previous two chapters. It discusses the rents that benefit state agents and structures, elite networks and the borderland population more widely. It highlights the importance of smuggling rents for the social stability of the borderlands and builds on the analysis of chapters 5-7 to situate smuggling in the political settlements in Tunisia and Morocco. It argues that smuggling has not undermined state-building, but has been an essential feature of political settlements in both countries, incorporating borderlands through an ‘informal authoritarian bargain’.

The third set of chapters then examine changes in the incorporation of smuggling in the political settlements of Tunisia and Morocco in recent years, in order to explore power dynamics between the actors involved and trace the heterogeneous ability of local actors to influence the terms of their incorporation into political settlements or adjust to their changes.

Chapter 8 examines the changes that the political settlements in Tunisia underwent in the years after the 2011 revolution from the perspective of its southern borderlands. These years have seen important developments for the local smuggling economy: a complete collapse of state enforcement in 2011, and its gradual return, new security infrastructure, the emergence of legal civil society organisations representing smugglers, an ISIS attack on Ben Guerdane and the civil war in Libya. Tracing the re-negotiation of the role of the smuggling economy throughout these events, the chapter argues that these developments have played out on the surface of a larger continuity, as the post-2011 Tunisian political settlement still relied on the smuggling economy to incorporate its southern borderlands.

Chapter 9 traces the changes that the political settlement in Morocco has undergone from the perspective of its northern borderlands. Rather than a revolution, a set of reforms, including new formalised markets and trade agreements, have affected the country's smuggling economy in recent years. Tracing the negotiations and effects of these changes, the chapter argues that while the past decade has looked 'quieter' than Southern Tunisia, it has seen a fundamental restructuring of many rent streams, with heterogeneous effects for different actors. As a result, when border fortifications installed by Algeria caused the collapse of large sections of the local smuggling economy, the ability of groups to adjust to the changes was crucially conditioned by these reforms.

Chapter 10 draws on the two preceding chapters to trace effects of the informal incorporation of borderlands into political settlements on stability, formalisation processes, and on borderland communities themselves. Focussing on the comparison between textile and gasoline smugglers, it examines the attempts by different groups to navigate and improve the terms of their informal incorporation, and points to reasons for their heterogeneous experiences. It argues for an analysis of 'lived'

political settlements, which considers the terms on which groups are included in political settlements alongside their ability to shape the settlement and react to changes.

Finally, **Chapter 11** concludes by drawing out the dissertation's central arguments alongside their implications for scholarship on institutional theory, political settlements, borderland studies. It also notes central policy implications and articulates perspectives on this field of research looking forward.

1.6 Illegal Trade and Evasive Terminologies

Before proceeding, a brief note on terminology is in order. In the words of the people interviewed for this study, its subject has many names: some call it *tijāra muāziyya*, “parallel trade”, or *tijāra bainiyya*, “intra-border trade”. *Tijāra ghayr rasmiyya* and *tijāra ghayr muhaykil* are commonly used, both translate approximately as “informal trade”.⁵ Sometimes Arabic is dropped altogether, and people switch to the language of the old colonial powers, using the French *contra* or the Spanish *trabando*. It is a sensitive subject, and people pick their words carefully, either aiming or avoiding to confer legitimacy to what they are describing. The man selling gasoline out of jerrycans in Northern Morocco may call it *tijāra ‘āishiyya*, “survival trade”, while politicians and World Bank officials in Tunis are most likely to use the terms most familiar to us: *tahrīb*, or “smuggling”.

There is a similar tendency in academic writing on the subject. While economics and security literatures are quite comfortable with the term “smuggling”, other scholars are cautious of its negative associations, and it typically gives way in geography and borderland studies to “informal trade” or “informal cross-border trade” (ICBT). In this dissertation, I use both terms. I use smuggling to describe all forms of cross-border trade that violate the formal law applicable at the respective border. I use ICBT to describe the smuggling of licit goods, meaning all goods for which a legal trade corridor exists that is not subject to additional security clearance.⁶ It is this type of

⁵ ‘Inofficial’ or ‘unstructured’ trade would be potential alternative translations here.

⁶ This definition does not address the issue of trade in the absence of formal regulation and trade channels. However, as this does not arise in the empirical context of this dissertation, I do not discuss it here. For brevity, I use “informal trade” as a synonym for informal cross-border trade.

activity which stands at the heart of this study, and are differentiated from the smuggling of illicit goods, such as narcotics, expired medicine, firearms, endangered animals or historical artefacts.

I trust the reader not to consider common connotations of these terms, in particular, the word ‘smuggling’ to be an indication of any normative position that I or the people interviewed for this dissertation hold with respect to these activities. Instead, Chapter 6 contains a detailed discussion of the legitimacy of smuggling from the perspective of those who are engaged in it, while this dissertation as a whole should be indicative of mine.

Chapter 2: Smuggling, Regulation, and Political Settlements

2.1 Introduction

The central questions of this dissertation revolve around the relationship between smuggling and state-building, how it is shaped by regulation, rents and distributional politics, the dynamics which have driven this relationship in recent years, and their effects on the countries in question and their borderland populations. While there still exists literature and analysis that treat illegal economies as largely unconnected or antagonistic to state structures, as ‘underground’ (Witte, Eakin, and Simon 1982; Schneider 2004), ‘shadow’ (Schneider and Enste 2000; Eilat and Zinnes 2002), ‘hidden’ (Frey and Weck-Hanneman 1984) and ‘under the radar of the state’ (Oviedo, Thomas, and Karakurum-Özdemir 2009), a set of expanding (though frequently unconnected) literatures have put forward analytical frameworks and hypothesis on the relationships between smuggling, informal institutions, rents, and state-building.

This chapter begins by outlining dominant approaches towards the role of formal and informal institutions in state-building in the literatures on ‘Good Governance’ and scholarship on political settlements, the main theoretical backdrop of this dissertation. In the sections that follow, it then reviews a range of literatures that both directly speak to questions of smuggling and state-building and provide further conceptual depth to political settlement approaches by relating them to literatures on informal institutions, inclusion and borderlands.

2.2 State-Building, Good Governance and Political Settlements

Unsurprisingly, accounts of smuggling and state-building are shaped by different conceptions of state-building, and, with smuggling as a typically informal activity, particularly by varying conceptions of the role of formal and informal institutions in state-building processes. For much modern mainstream political economy scholarship, and particularly New Institutional Economics (NIE), state-building largely revolves around the creation of institutional structures that are able to support,

maintain and enforce specific economic institutions such as contracts or secure property rights (Acemoglu and Robinson 2012; North 1990; North et al. 2007; North, Wallis, and Weingast 2009). Having emerged from a developmental paradigm that focusses on market-driven development, state-building is conceptualised as being primarily about “getting the institutions right” (Rodrik 2004) – while good political institutions are assumed to be ‘inclusive’, the focus is put on their structure and functionality rather than the processes that installed them.

Importantly, state-building is explicitly conceptualised as the realm of formal institutions, both politically and economically. Borrowing from Weber’s types of political authority⁷ (Weber 1922), state-building is associated with the expansion of legal-rational authority that is assumed to rest primarily in formal institutions. This is contrasted with regulatory informality, which in turn is commonly associated with personalised authority, corruption, neo-patrimonialism and authoritarianism (Erdmann and Engel 2007; van de Walle 2003; Lauth 2000; Hartlyn 1998). This distinction has been further emphasised by the ‘Good Governance’ agenda, which, drawing on New Institutional Economics alongside Neoclassical Economics and New Public Management, emphasised transparency, accountability and rule-based governance (Roelofs 2016), associating these primarily with formal institutional structures.

From the perspective of New Institutional Economics and a ‘good governance’ agenda, effective state-building is inherently *formalisation*. As economic institutions and political institutions are assumed to be logically and causally related (Acemoglu and Robinson 2012), this applies to both political and economic regulation. From this assumption has developed a related literature on development through formalisation, championed most prominently by Hernando de Soto (1989; 2001). Drawing empirically on the large informal economies of developing countries, it argues that their under-development is primarily caused by the informal status of their regulatory institutions, and their exclusion from key formal institutions, particularly property rights. Furthermore, it assumes an essential congruence between economic

⁷ It is worth noting here that this separation does not adequately characterise Weber’s own complex writing on informal institutions, but primarily reflects a neo-Weberian emphasis.

formalisation and state-building - “the informal economy”, de Soto writes, “is the opposite of the state of law” (Soto 2012, 62).

Various alternative conceptions of informality in state-building have evolved as empirical and normative critiques of the primacy of formality in New Institutional and Neo-Weberian approaches. Tilley (2005) has pointed to informality – through trust networks – as a central factor in democratisation. In his account, informal interpersonal networks are not antithetical to formal democratisation and development, but a precondition, as they can generate trust that formal government institutions themselves are unable to create, and can negotiate a structure where they intertwine with state authority, building trust between citizens and the state. His analysis is echoed in more contemporary work on informal networks within formal politics and development, such as Goodfellow’s (2019) analysis of ‘political informality’ and recent discussions around the role of ‘deals’ in development (Pritchett, Sen, and Werker 2017).

Normatively, a common critique of the primacy of formal institutions in mainstream political economy argues that it has led scholarship to “skip straight to Weber” (Woodman 2012, 130), assuming that a transition from the status quo to an ideal type can be made “in a single bound” (Andrews, Pritchett, and Woolcock 2017, 117). A related critique can be found in work on states and illegality, which notes both the empirical involvement of states in illegal activities and the political nature of the creation of formality itself. In a seminal volume, Abraham and Van Schendel highlight that “both law and crime emerge from historical and ongoing struggles over legitimacy, in the course of which powerful groups succeed in delegitimising and criminalising certain practices. But their success always falls short of either winning full popular consent or fully supporting criminalised practices. As a result, licit and illicit practices coexist in social life and are together imbricated in state processes. Students of illicitness must start from the assumption that states cannot simply be equated with law and order, and that illicit practices are necessarily part of any state” (2005, 7). Similarly, Heyman and Smart argue that “open-minded, empirical studies of state-illegality relations enable us to transcend the stultifying assumption that states always uphold the law” (1999, 1).

One of the most prominent critiques of the conception of state-building and the role of informal institutions advanced by mainstream political economy and the good governance agenda can be found in the expanding scholarship on political settlements.⁸ The remainder of this section will focus on this approach. Political settlement scholarship analyses the formal and informal arrangements that determine the distribution of resources in a given political system alongside the distribution of power between the groups involved. Crucially, it diverges from NIE approaches by highlighting the compatibility of the balance of power and the distribution of resources as a crucial determinant of institutional performance itself: “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” (M. Khan 2010, 3). State-building, here, is therefore not merely about ‘getting the institutions right’, but also about bringing about an institutional structure that is stable and developmental, as a function of its compatibility with the wider balance of power in society.

Although they share a common theoretical project, the amount of scholarship published on political settlements in recent years makes it increasingly difficult to pin down one singular definition or approach – Laws (2012) finds 16 different distinct definitions of ‘political settlements’ in the current literature. Different projects – from its origins in the study of industrial policy to contemporary research agendas around fragile states and peace-building have exacerbated this issue. Having first popularised the concept, Khan 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). ‘Compatibility’ here refers to an equilibrium between the distributions of benefits that is generated by a given institutional structure and the power of those groups that receive them. Power, in Khan’s framework, refers to ‘holding power’, defined as “the capability of an individual or group to engage and survive in conflicts” (2010, 6) by imposing costs on others or absorbing costs inflicted upon them. If powerful groups feel that they are not receiving enough benefits, they have an incentive to undermine

⁸ As Gray (2016) points out, while political settlement scholarship provides a contrast to early NIE scholarship, it shares features with some of the later work of Douglas North in particular (North, Wallis, and Weingast 2009).

or change the existing institutional structure. ‘Sustainability’ here refers to the level of economic performance and political stability required for the reproduction of the given society (2010, 4).

Khan himself formulates political settlement analysis explicitly as an alternative to the traditional NIE analysis of institutions by expanding the question of enforcement. It recognizes the ‘dual effect’ (Ibid., 19) of institutions: its efficiency effect (the focus of much neoclassical analysis), and its distributional effect, which might increase enforcement costs by incentivizing certain groups to resist enforcement. At the same time, its distributional effects could channel resources to certain groups, which in turn could affect their holding power. Institutions affect the distribution of power, and the distribution of power affects institutions: distributional effects hence must be considered an essential determinant of institutional performance itself (Ibid, 22).

Consequently, scholarship on political settlements diverges from NIE in its evaluation of rents. While NIE primarily frames rent-seeking as unproductive and antithetical to development, a political settlement approach argues that rent-seeking can be developmental if it contributes to the stability of the settlement. To systematise this point, Khan (2010) presents a taxonomy of political settlements, dividing them by asking whether holding power is aligned with formal institutions, and whether these formal institutions potentially support growth. While in ‘capitalist’ political settlements holding power is aligned with formal institutions that potentially support growth, in ‘clientelist’ political settlements growth-oriented formal institutions are insufficient to bring the distribution of holding power into alignment with formal institutions. ‘Pre-capitalist’ and ‘Political Settlements in Crisis’ mirror the two types in a context where formal institutions are not growth-oriented or have collapsed. According to Khan, ‘clientelist’ political settlements are the status quo in developing countries today, generating a situation where formal institutions by themselves are unable to sustain political settlements.

It is exactly in the context of clientelist political settlements where political settlement analysis’ approach to informal institutions is most distinct and diverges most directly from a neoclassical analysis. Having observed the role of informal institutions, including what would generally be conceived of as corrupt networks, in the development experience of East Asian countries, Khan does not present them as

inherently antithetical to state-building and development. Instead, in clientelist political settlements, informal institutions can 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 holding power, and hence maintain the stability of the system as a whole, thereby supporting the performance of both formal and informal institutions. It's worth quoting Khan at length here:

“As soon as a social order emerges, the distribution of power becomes embedded in institutional arrangements that sustain it. Some of these may be formal institutions, but in a developing country formal institutions are not likely to be able to sustain the distributive requirements of all powerful groups. Inevitably, there will be a substantial variety of informal institutional arrangements, including the organization of informal power in patron-client organizations. These informal organizations can help to achieve a defined political settlement if they generate distributions of benefits that bring the overall distribution of benefits closer into line with the distribution of power. Thus informal institutions both reflect but also ultimately sustain the distribution of power by creating supportive benefits for powerful groups.”
(2010, 8)

While the focus on formalisation of neoclassical approaches situates informally regulated economic processes almost per definition as subversive, political settlement analysis makes this conditional upon their effects on the wider distributions of power and resources. Consequently, a political settlement approach suggests the possibility of a non-subversive role for smuggling economies in state-building processes, if the rents generated through them help to bring the distribution of resources in line with the wider distribution of power.

The past ten years have seen various adaptations and extensions in the employment of a political settlement approach (Putzel and Di John 2009; Laws 2012; Kelsall 2016), driven partially, as Beruhia et al. (2017) have noted, by a desire within development organisations to systematise and render legible the political structures of fragile and conflict-afflicted countries. As a result, the increasing push for an operationalisation of political settlements has spurred new debates and drawn up conceptions of political settlement analysis that differ from Khan's.

One key disagreement here refers to the predictability of the development outcomes of political settlements. Khan classifies political settlement along three parameters: the horizontal distribution of power, meaning the power of “excluded factions, relative to the ruling coalition”, the vertical distribution of power, meaning “the relative power of higher compared to lower factions within the ruling coalition”, and the way in which a settlement is financed (M. Khan 2010, 65–67). From this, he derives four ideal types of political settlement (see Figure 1).

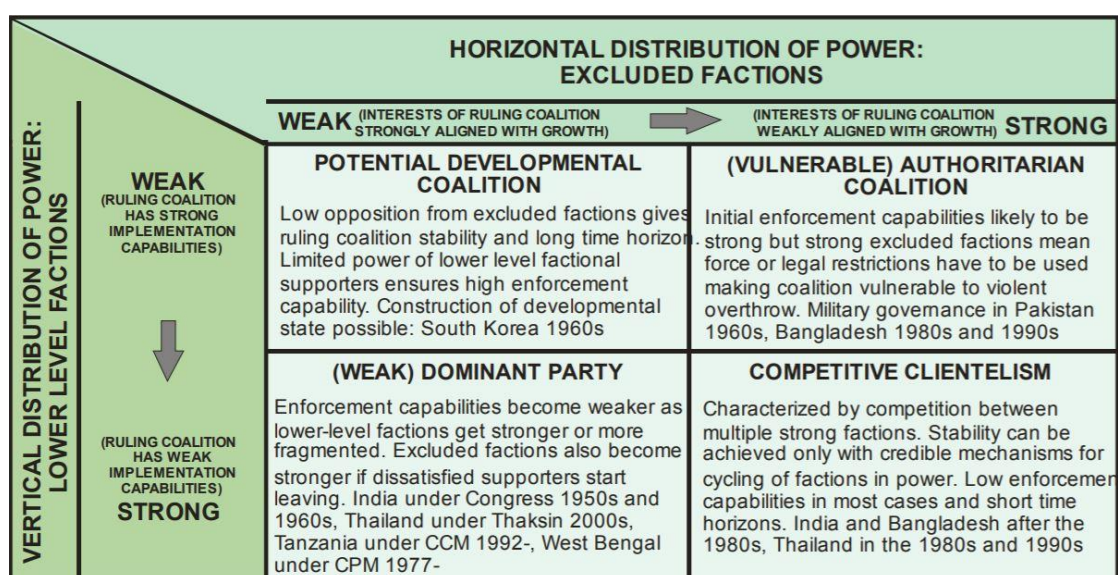


Figure 1: Classification of political settlements
(Source: Khan 2010)

Consequently, attempts to operationalise political settlements have assigned high predictive power over development outcomes to different types of political settlements. Scholars such as Booth (2015) have developed typologies that share Khan’s focus on horizontal and vertical distributions of power, but articulate more explicit assumptions that development primarily can be achieved through strong, centralised coalitions, and consequently scepticism with respect to the possibility of potential outcomes under competitive clientelism (Booth and Golooba-Mutebi 2014). In contrast, Behuria et al. (2017), Gray (2018) and more recently Khan himself have been more cautious about a deterministic relationship between political settlement types and development outcomes, drawing on work of Whitfield and Buur (2014), Whitfield et al. (2015) and others to note that similar political settlements can still produce remarkably different development outcomes.

As Meagher (forthcoming) has pointed out, these differences have also influenced the policy conclusions of different strands of political settlement analysis. Booth (2014) and others have emphasised the ability of political settlement approaches to identify political conditions that are beneficial for certain sets of economic reforms, and develop forms of engagement that may ‘nudge’ political structures towards more developmental settlements (Kelsall 2016). Conversely, Khan (2017), Gray (2018) and others have instead highlighted the ability of political settlement analyses to improve our understanding of the political structures under which reforms are implemented, and hence adapt them to local political circumstances.

2.3 Informal Institutions

Informal institutions stand at the heart of the differences between political settlement approaches and New Institutional Economics. While more recent works in NIE by Douglas North and Acemoglu et al. have conceded that de-facto power relations in society may affect institutional performance (Gray 2016), they still maintain that formal institutions will eventually be in alignment with the de-facto distribution of power. As Behuria et al. (2017) have noted, it is through the role of informal institutions that political settlement scholarship explains how de-facto power can remain misaligned with formal institutions for a considerable amount of time. In the context of developing countries, this aspect is particularly important as the legacy of colonial regimes typically not only manifested in formal institutions, but also in a broad array of informal institutions left behind by pre-colonial systems and developing alongside formal ones (Meagher 2010; forthcoming). Crucially, as discussed above, political settlement scholarship diverges from NIE in arguing that informal institutions and the resulting rent streams are not necessarily incompatible with stable, inclusive and developmental political settlements (Khan 2010).

It is hence interesting to note that while they disagree substantially on the function of informal institutions, most political settlement scholarship and NIE largely agree on a definition and characterisation of what informal institutions are. In his canonical works on institutional theory, Douglas North draws a clear boundary between two types of institutions, or “humanly devised constraints that shape human interaction” (North 1990). *Formal institutions* are mainly encapsulated in state structures (constitutions,

laws) and enforced by state entities, such as courts and policemen. In contrast, *informal institutions* are considered to be lacking third-party enforcement, they are “rules in force” (Ostrom 2005), self-enforcing (North 1990, 67), largely “through mechanisms of obligation, such as in patron-client relationships or clan networks, or simply because following the rules is in the best interests of individuals who may find themselves in a situation in which everyone is better off through co-operation” (Jütting et al. 2007, 31). The origin of informal institutions is commonly suggested to lie in local and traditional culture (Ostrom 2005; North 1990) or have emerged as a rational response to the demands of informal markets (Skarbek 2012; Kostelnik and Skarbek 2012; Gambetta 1996).

Alongside being self-enforcing – and as a consequence of it – informal institutions in NIE are typically conceptualised as unwritten, small-scale and personalised, as self-enforcing institutions are difficult to maintain at large scale or high levels of complexity (La Porta and Shleifer 2014; Soto 1989, 180). Consequently, economic activities regulated through informal institutions are similarly perceived as made up of small-scale organisational units, personalised relationships of exchange, insecure property rights and hence frequently generating markets for clientelistic relationships with security forces (Varese 2001; Gambetta 1996). In his seminal article, Bratton (2007) explicitly defines informal institutions as “patterns of patron-client relations” (97).

Political settlement analysis, in Khan’s formulation, largely shares NIE’s definition and characterisation of informal institutions. Khan writes that institutions are informal “when there are no formal rules written down and enforced by formal (state) enforcement, but there are nevertheless ‘rules’ that are systematic enough to be identified” (2010, 10). He distinguishes between informal institutions that result from internalised norms and values, informal institutions that contain some enforcement through third parties “who may formally be within the state but whose operations in any case rely on the mobilization of informal power” (2010,10), and informal institutions that result from ‘equilibrium behaviour’, closely resembling the NIE conception. Crucially, Khan’s review of informal institutions shares NIE’s assumption that they are always personalistic: “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).

Albeit they disagree on the potential developmental impacts of informal institutions, as discussed in the section above, NIE and political settlement approaches both note that informal institutions can have a decisive impact on the functioning and enforcement costs of formal institutions. The relationship between formal and informal institutions has been systematised in a seminal piece by Helmke and Levitsky (2004), who suggest four ways in which informal institutions can interact with formal institutions. Notably, in their account, not only do informal institutions affect the functioning of formal institutions, but they are themselves shaped by the formal institutional environment.

In an environment in which formal institutions are effective, informal institutions can be ‘complimentary’ if their goals are compatible with formal institutions. They “fill in the gaps” and address the problems not explicitly dealt with by formal institutions. If their goals are not compatible, they can be ‘accommodating’, second-best strategies for actors opposed to the formal rules, but unable to openly break them. In an environment where formal institutions are ineffective, informal institutions can be ‘substitutive’ if their goals are compatible with formal institutions. They are used to deliver the outcomes the formal institutions failed to provide. If their goals are incompatible, they can be ‘competing’ and incentivise actors to break formal rules: clientelism, patrimonialism and clan politics are commonly cited examples (see Figure 2).

	Effective Formal Institutions	Ineffective Formal Institutions
<i>Compatible Goals</i>	Complementary	Substitutive
<i>Conflicting Goals</i>	Accommodating	Competing

Figure 2: Formal and informal institutions
(Source: Helmke and Levitsky 2004, 728)

Helmke and Levitsky note that informal institutions often have ambiguous effects: while some informal rules explicitly subvert formal procedures, they may also help achieve outcomes that formal institutions were designed to achieve. “And although accommodating informal institutions such as informal power-sharing arrangements

help actors violate the spirit of the formal rules, they may generate outcomes (democratic stability) that are viewed as broadly beneficial” (Helmke and Levitsky 2004, 730). While still remaining firmly wedded to a dichotomous view of formal and informal institutions, Helmke and Levitsky move away from generalising about the relationship between informal and formal institutions, and open it up as a structured empirical question, which has been taken into account by an increasing number of scholars working on politics and development (K. S. Tsai 2006; L. L. Tsai 2007; Ledeneva 2006; Andrews 2013; Hale 2011).

More critical approaches towards informal institutions within sociology and anthropology frequently diverge from dominant approaches in political science by questioning the presumed features of informal institutions, the rigidity of the divide between the two institutional types, and both the empirical and normative primacy of formal institutions. Exploring the variety of informal institutional structures and experiences, critical institutionalist scholars have highlighted that the “second-best” status of informal institutions with respect to their efficiency (Assaad 1993a; Meagher 2008; 2010; Roitman 1990; Cheng and Gereffi 1994), scope (Benería and Roldán 1987; Cheng and Gereffi 1994; Lovejoy 1980) and complexity (Robertson 1987; Meagher 2018a), should be taken as an empirical question, rather than a theoretical assumption. Historically grounded analyses have argued that rather than having emerged in the absence of or in competition to formal institutions, informal institutions are commonly the “manifestations of aspects of a pre-existing institutional structure that the new order failed to fully displace” (Assaad 1993a, 926), and are therefore not only deeply entangled with modern formal institutions (Roitman 1990; Rothchild and Chazan 1989; O. J. Igue 1983), but also embody a temporary relation to them, a history of how institutions have been constructed and adapted over time.

The study of Legal Pluralism has taken up these insights and articulated them into a critique of mainstream institutional ideas of regulation. At the heart of Legal Pluralism stands the theoretical claim that there can be, and usually is, “more than one legal order or mechanism within one socio-political space, based on different sources of ultimate validity and maintained by forms of organisation other than the state” (Benda-Beckmann 2002, 37). Legal Pluralism aims to take a non-normative position on these different legal orders, and criticises both the empirical and normative primacy that many other theorists have assigned to laws which enjoy third-party enforcement by

the state. It is inherently critical of the idea that the state “has a monopoly on norm production” (Reyntjens 2016, 362), framing the state not at the centre of regulation, but as one semi-autonomous social field amongst many, which is itself “simultaneously set in a larger social matrix which can, and does, affect and invade it” (Moore 1978, 56). Legal Pluralist scholarship furthermore questions the empirical distinction between state law and non-state law, and, by extension, formal and informal institutional regulation, seeing it primarily as “an ideological one, derived from the state’s hegemonic project” (Reyntjens 2016, 350). Consequently, Legal Pluralism not only diverges from the normative primacy of formal institutional regulation at the heart of NIE, but also poses challenging questions for political settlement analysis, which struggles to conceptualise the existence of a range of regulatory orders that co-exist in non-hierarchical relationships.

Compared to institutionalist scholarship in political economy, Legal Pluralist scholarship is significantly less interested in operationalisation - rather than providing particular predictions about the consequences of particular regulatory arrangements, it provides a research agenda for further enquiry into the reality of regulation on the ground. While this has put legal pluralism in a unique position to examine the role of informal and non-state arrangements in governance and state-building, its normative neutrality has also been criticised as leading to an under-developed account of power dynamics in legal pluralism. As Jayasuriya points out, while legal pluralism has made important contributions to our understanding of bottom-up governance and institutional experimentation, “a bottom-up perspective elides the questions of ‘who’ promotes these experiments and for ‘what’ reason” (Jayasuriya 2011, 145). In a related critique, Michaels has suggested that the power relations embedded in legal pluralism need to be viewed in the context not just of local, but also global and globalised norm creation, whereby it is defined more “from the top down than from the bottom up: an internal differentiation of global law, not a multitude of varied local laws” (Michaels 2009, 247).

Legal Pluralism can also be credited with providing the theoretical background for adding another institutional type to the vocabulary for this analysis, namely, that of the *hybrid institution*, as participants “mobilize different legal repertoires against each other (...). They may also accumulate elements of different systems or compound them to create hybrid forms” (Benda-Beckmann 2002, 69). In the context of the

regulation of informal economies, likely hybrid institutions would be institutions that include the use of legal mechanisms from the formal institutional sphere, such as the formal law, in a direct interaction with informal institutional structures such as the use, by local municipalities, of formal market or tax codes to structure and exert revenue from informal economic distribution networks.

The work of critical institutionalist such as Frances Cleaver⁹ mirrors legal pluralism in its engagement with different interacting institutional systems, going beyond the rationalist and culturalist explanations given by mainstream institutionalism (Jütting et al. 2007), but with a larger focus on institutional change. Drawing on Douglas' (1986) notion of 'intellectual bricolage', Cleaver (2012; 2015; 2001) develops the idea of 'institutional bricolage'. In her description, rather than being consciously crafted by rational agents in order to solve collective problems, institutions emerge and develop through a process of bricolage, through gathering styles and analogies of pre-existing institutions and combining them anew. Institutions themselves straddle the line between formality and informality, and are often not designed for a single purpose, but can also be simultaneously co-opted, adapted and transformed (Cleaver 2001; 2012). Here, critical institutionalism provides a clear departure from both NIE and political settlement accounts of institutional change, where institutions are, if not consciously drafted to solve coordination problems, then still primarily a function of the distribution of power. Critical institutionalism not only emphasises local, bottom-up dimensions of institutional change, but through notions of bricolage and multi-purpose institutions also extends the importance of historical trajectories and path-dependencies that are not teleological, but driven by features of institutions themselves, tracing, in Douglas' (1986) words, 'how institutions think'.

Scholarship on hybrid governance draws on insights from both legal pluralism and the work of critical institutionalists. Christian Lund's work on 'twilight institutions' (2006), inspired by the legal pluralism of Sally Falk Moore (1978), examines how hybrid institutions and local actors can take on functions of the state; taking on the mantle of public authority while at the same time declaring their independence from the state. He examines how some institutions which claim to be the opposite of the

⁹ Also Hall et al. (2014), Jones (2015), De Konig (2011), Ingram et al. (2015). The literature on practical norms (Herdt and Oliver de Sardan 2015; Bierschenk and Olivier de Sardan 1994) follows a similar project.

state, may at the same time become a part of the ensemble of institutions exercising public authority, and through their language and imagery – the bricolage of their own institutions – take on functions and forms of the state, and reinforce the state image.

Although Lund follows Peters (2002) in remarking that the focus on negotiability and fluidity of social and political relationships may lead us to overlook how institutional outcomes influence different groups in society differently (Lund 2006, 700), he appears to be vulnerable to the same criticism of Legal Pluralism, stopping short of providing a structure that evaluates the wider effects of hybrid institutional structures on different groups.

There are significant parallels here to the work of Olivier de Sardan and his collaborators on ‘real governance’. Noticing that the actual practices in state institutions in the developing world usually do not match the formal norms, Olivier de Sardan coins the term ‘practical norms’ to describe the unofficial but non-random social practices which govern behaviour in these institutions (2015; 2008). He emphasises the role of practical norms as an exploratory rather than analytic concept, in order to trace, examine and categorise the micro-dynamics of regulatory practices in the developing world – a challenge that has been picked up by a wide range of researchers (Titeca and Flynn 2014; Twijnstra, Hilhorst, and Titeca 2014; Titeca and Herdt 2010; Prichard and van den Boogaard 2015; Herdt and Oliver de Sardan 2015).

Like Cleaver or Lund, Olivier de Sardan effectively describes hybrid institutional arrangements within the state apparatus, however, he differs in his theory of institutional change. Rather than through Cleaver’s bricolage, where ‘institutions do the thinking’ (Douglas 1973), practical norms are more products of individual agency, of people adapting to the environment around them. While Olivier de Sardan is quick to point out that the ‘practical’ in practical norms isn’t to be taken normatively (Herdt and Oliver de Sardan 2015, 10), there is a sense in which the role of adaptation in his account of the origin of these arrangements has made the concept more susceptible to an agenda of development ‘with the grain’, of finding out ‘what works’, and hence a highly optimistic position about the role of informal institutions in state-building (Booth 2011; Levy 2014).

This has been followed by some criticism which warned that, in the absence of a precise account of the power relations, this literature risks threatening potentially

oppressive or exclusive institutional arrangements as an “instrumentalist fix” to the messiness of development, and “blurring the line between coping strategies and socially accepted practices” (Meagher, Titeca, and De Herdt 2014, 5). After all, as Cleaver points out, practical norms are “not just pragmatic adaptations to contemporary challenges, but are ongoing re-workings of social arrangements, imbued with wider meanings. The combination of path dependence and improvisation in such arrangements means that they have the potential to reproduce existing inequalities of power *and* to challenge them” (Cleaver 2015, 209).

As this section has highlighted, scholarship on informal institutions has been divided along questions of their characterisation as personalistic, their distinction from formal institutions, their normative position in development and state-building, and the ways in which they are designed and change. To some degree, these discussions also mirror more classical perspectives on state-building. While much of the mainstream political economy work on the role of informal institutions in state-building echoes Neo-Weberian conceptions of formality and impersonality of state institutions, the scholarship on hybrid governance reflects the more historical accounts of Tilly (Tilly 1985; 1993). They also reflect their respective strengths and weaknesses – while much of the NIE perspectives on this issue is heavily burdened with pre-conceived assumptions about the efficacy and efficiency of informal institutions, critical scholarship has traced the role they play in the reality of state-building around the globe. However, while noting the diversity of outcomes that the interplay between formal and informal institutions can create, this scholarship has consistently struggled to articulate criteria, theories and frameworks that provide some insights into what type of outcomes are produced by which forms of interactions, and have risked accusations of romanticising the social outcomes of hybrid governance. As the next section notes, further questions exist around their role in political and economic inclusion.

2.4 Inclusion

As noted above, the notion of inclusion lies at the conceptual heart of political settlement analysis – the extent and way in which various groups in society are included into the settlement are assumed to determine its stability, its type, and

consequentially its development outcomes. This has likely contributed to its popularity in recent years, particularly within the donor community, as it has coincided with a wider discursive shift in the development community towards economic and social inclusion (Meagher 2015). Here, too, however, a push towards an increasing operationalisation of political settlement analysis' 'inclusion' framework by the donor community and particularly the UK Department for International Development has also led to a mushrooming of conflicting accounts of inclusion, and increasing conceptual confusion (Behuria, Buur, and Gray 2017; DfID 2010; Rocha Menocal 2015a; B. Jones, Elgin-Cossart, and Esberg 2012).

Much original research here has focussed on 'horizontal' inclusion, the relative power of different factions within and outside of the settlement, particularly on an elite level. Here, operationalisations of political settlements have dovetailed with arguments from the literature on peace-building and fragile states, stating that broader elite coalitions tend to produce more stable states (Lindemann 2008), have been taken up to advocate for a focus on inclusiveness in an elite context (Kelsall 2016; B. Jones, Elgin-Cossart, and Esberg 2012; Rocha Menocal 2015a). This was reflected in the 2011 World Development Report that argued that "moving away from the brink of violence" in conflict situations could be achieved through "inclusive-enough" pacts for change (World Bank 2011, 120). As Behuria et al. argue, a focus on elite inclusion "has contributed to the misunderstanding political settlements approaches", which in the earlier work of Khan (2000; 2005) had shown more explicit roots in class-based analysis, building on a much broader mapping of elite and non-elite groups in society.

Significantly less attention has been paid to 'vertical' inclusion, the inclusion of the population and social groups more widely. Menocal (2015a; 2015b) has argued that while horizontal inclusion is associated with short-term stability, long-term stability is connected to a broader sense of inclusion (2015a, 14).¹⁰ However, what this type of inclusion looks like remains widely unexplored. Menocal makes some reference to democratic institutions, but acknowledges at the same time that formal democratic institution-building has done little to make political settlements more inclusive in

¹⁰ Surprisingly, her discussion of more broadly inclusive political settlements relies heavily on the work of Acemoglu and Robinson (2012) as well as North, Wallis and Weingast (2009), which would generally be associated with the New Institutional Economics literature rather than political settlements.

regions such as Africa and the Middle East (Ibid., 17), a scepticism shared by Evans (2012). Putzel and Di John (2009) take an even more general view of inclusion, conceptualising it as a situation where the ‘social contract’ is “robust and legitimate” (4).

This mirrors, within political settlement scholarship, a lack of theoretical development on the relationship between the elites and the population more widely: while some reference a form of social contract (Putzel and Di John 2009), more common approaches imagine a form of downward projection of political settlements. Parks and Cole (2010) differentiate between a primary, national, political settlement, and a ‘secondary political settlement’ defined as “the arrangements among powerful local elites to control political competition and governance below the national level (i.e. province, state, district, city, village, etc.)” (Ibid., 18). Notably, the secondary political settlement still focusses on elites – the authors mainly assume that local elites “have strong ties to local communities through informal institutions” (Ibid., 18). Khan (2010) in a similar approach, describes a chain of patron-client relationships that link elites to local populations.

The difficulties in conceptualising vertical inclusion connect to wider challenges in the political settlement literature. Partly as a result of its intellectual origins in the study of industrial policy and peace-building, the literature is defined by a largely top-down vision of society, and been respectively ‘blind’ to finer power structures, such as gender (Mahmud and Nazneen 2012). Some of this lack of attention is intrinsic to the logic of some of the political settlement scholarship, as Parks and Cole have noted: “the political settlements framework emphasises the distribution of power and how it is used in pursuit of interest. In this regard, the focus of the framework is primarily on powerful actors – those with the ability to shape the behaviour of others. Poor and other marginalized groups in society are marginalized precisely because they do not have the power to adjust institutions and policy in their favour” (2010, 7). While Khan highlights, as cited above, that informal institutions both reflect but also ultimately sustain the distribution of power by creating supportive benefits for powerful groups” (2010, 8), there is little discussion on their relationship with powerless groups.

On a closely related issue, there is no uniform position in political settlement scholarship on whether inclusion should be conceptualised as an inclusive *process* or

an inclusive *outcome*. As Putzel and Di John have pointed out, this does not necessarily coincide: “Determining how inclusive or exclusionary a political settlement is cannot be understood simply by looking at the extent of participation in the bargaining process, or at appointments in the offices of the state. It requires an analysis of the distribution of rights and entitlements across groups and classes in society on which the settlement is based. It is possible that an imposed political settlement can be more inclusive than one reached through pluralist bargaining” (2009, 5). Many of the developmental states of South-East Asia at one point were good examples for this kind of discrepancy, with Rwanda and Ethiopia as potential contemporary examples (Booth 2012; Rocha Menocal 2015a). Similarly, Meagher (forthcoming) has highlighted the important differentiation between settlements that are *politically inclusive*, and settlements that shape incentive structures in such a way as to make more *inclusive economies* desirable for political elites.

While most political settlement analysis focuses on the effect that the inclusion of specific groups in a political settlement has on that settlement as a whole, it has coincided with a trend in the development industry to frame poverty and informality in poor communities in developing countries as a lack of inclusion. Bottom of the pyramid business models, social entrepreneurship, microfinance and other development interventions have been increasingly situated as alleviating poverty by including poor communities – in markets, global value chains, or financial services (Mendoza and Thelen 2008; Prahalad 2009). The contention that poverty is primarily a result of exclusion, however, has been increasingly challenged in recent years. In a seminal article, Du Toit (2004) examined how in the context of a farming community in South Africa, poverty resulted not from exclusion, but from the exploitative terms on which workers were included in local market institutions. Here, and in a wider critical literature on the effects of market incorporation, inclusion is explicitly contrasted not merely with exclusion, but with ‘adverse incorporation’, thereby highlighting that interaction of marginalised groups with larger power structures and economic markets is not in itself inclusive, but can itself perpetuate or exacerbate poverty and exploitation (du Toit 2009). De Toit’s work suggests that rather than treating inclusion as a general good, the terms and methods of inclusion require examination.

In this context, there is a surprising lack of discussions in the political settlement literature on whether it makes a difference for groups within the settlement whether they are included through formal or informal institutions. Recent years have seen mainstream development discourse increasingly frame informal institutions as something that can be drawn on to include marginalised communities into market systems, once they are made legible to formal actors, and connected, reshaped or hybridised with formal institutions (Dolan and Roll 2013). As a range of studies have pointed out, however, risks of ‘adverse incorporation’ can be particularly elevated at the intersection between formal and informal institutions, as power imbalances between formal sector actors and local communities frequently lead to informal institutions being reshaped, ‘cannibalised’ or ‘reconfigured’ in the interest of formal sector actors, and inclusion being selectively organised to benefit formal sector actors (Meagher 2015; 2018a; Elyachar 2005; Dolan and Roll 2013).

Rather than focusing on informal institutions and inclusion through the examination of hybridity and the formal-informal intersection, the work of Tandler (2002), Holland (2015; 2016; 2017) and Resnick (2019) on street vendors examines the conditions under which politicians and local bureaucrats strategically tolerate informal economic activities in specific areas. In what Holland calls ‘forbearance’, political acquiescence is exchanged not for informal rents or side-payments, but for the toleration of informal economic activities, regulated through informal institutions, through which these rents are generated. Although they don’t engage the literature on inclusion or political settlements head-on, these studies ask important questions about its boundaries. Specifically, they suggest a questioning of the difference between inclusion through a form of benign neglect via the toleration of informal activities and exclusion. Tandler’s answer to the question mirrors the concerns about the terms of inclusion found in the literature on adverse incorporation. Highlighting that the arrangements she describes lead to under-investment and marginalisation of communities dependent on informal economic activities, Tandler refers to them as a “devil’s deal” (2002).

2.5 Borderlands

Both borders and borderlands are outcomes of the expansion and territorial hegemony of the modern nation-state (Baud and Schendel 1997, 213). While borders are

traditionally viewed as a powerful symbol of the territorial integrity of the state, “locales established for the express purpose of exhibiting state power” (McMurray 2001, 126), borderlands, the “space on both sides of a territorial boundary with different regulatory frameworks” (Korf and Raeymaekers 2013), both situated near a symbol of state hegemony and at the periphery of its territory, they have provided a unique empirical setting for a range of discussions on inclusion and informality (Vorrath 2010). Given the prevalence of smuggling economies in the borderlands of developing countries, these discussions structure closely around the role of clandestine economies, which, as Meagher has noted, “get an identity change about once every decade” (2014b, 1): from the focus on economic distortions in the 70s and early 80s to scholarship on indigenous entrepreneurship in the 1980s, its association with corruption and the criminalisation of the state in the 90s, and the focus on hybrid governance in recent years.¹¹ However, dividing lines between these approaches also commonly run between disciplines, and, crucially, between fundamental assumptions about informal institutions and state-building.

While mainstream political economy and political science scholarship, particularly from an institutionalist direction, has so far produced remarkably little scholarship on smuggling (Andreas 2015), its concepts and assumptions have informed multiple perspectives on the issue. Economics scholarship on the ‘welfare effects’ of smuggling (Bhagwati and Hansen 1973) has fed into some enthusiasm around informal cross-border trade as a reaction to tariff barriers and a constituency for economic integration from below.¹² More recently, much of the scholarship built upon mainstream institutional theories such as NIE have provided the groundwork for arguments that smuggling undermines state-building by undermining the (formal) institutional structure of the state, as well as its ability to collect revenue (Ayadi et al. 2013). Rotberg’s (2010) list of indicators of a failed state explicitly lists “smuggling” alongside “corruption”, “civil wars characterised by enduring violence”, or “cessation of functioning legislatures” (2010, 5-9), and it features as one of the main ‘risk areas’ to states in Schneckenner (2004, 7). Commonly, this is folded into a wider literature on

¹¹ Meagher’s analysis here focuses on African borderlands.

¹² It is however worth noting that this enthusiasm was regionally bounded – while the potentially positive aspects of porous borders have been pointed to even by World Bank publications in the context of Central Asia, this perspective has never really existed in publications on the Middle East and North Africa.

“weak”, “fragile”, “failing”, “failed” and “collapsed” states, particularly in an African context (Boege et al. 2009), in what Heuser (2019) describes as the ‘crime-fragility rationale’.

In their positioning of smugglers and states as antagonists, these approaches mirror James Scott’s seminal study of borderlands in South-East Asia. Entitled “The Art of Not Being Governed”, it is here where Scott has most prominently made the case that borderlands are, by definition, aiming to resist inclusion into the state. He refers to them as the “last enclosure” (Scott 2009, 4), and argues that “virtually everything about these people’s livelihoods ... can be read as strategic positioning designed to keep the state at arm’s length” (2009, x). While he does not claim that borderlands are always successful in their endeavour, his writing is framed around a stark contrast between the state and the people of the border, with smuggling and cross-border trade framed as conscious acts of rebellion, resistance and subversion against the state. Albeit taking a less dogmatic position, Hüsken and Klute (2015) have similarly argued that the governance processes in borderlands may become so removed from the logic of the political centre, that we need to look beyond state-centred analytical structures in order to fully analyse them – they point to the notions of heterarchy (Bondarenko, Grinin, and Korotayev 2004) connectivity (D. J. Scheele 2012; J. Scheele and McDougall 2012) and local actors (Harders 2013).

In his field-defining study of the Ghana-Togo frontier, tracing the role that smugglers and wider borderland populations played in the construction and maintenance of the border as an institution, Nugent (2002) had laid out a contrasting approach. He concludes that, in their use of the border for their livelihoods, and in their interaction with border guards and customs, smugglers contributed to its entrenchment, and hence “helped to render the border more legitimate and not less so” (Nugent 2002, 7). Smugglers, in Nugent’s analysis, are not subverting the state, but benefitting from one of its institutions, the border, and engaged in its maintenance. While Scott frames borderlands as the last refuge from the state, Nugent emphasises: “I wish to establish that even the most marginal border communities have been closely intertwined with the state” (2002, 232). His conclusion is echoed by scholars such as Egg and Herrera (1998) or Vorrath (2010, 102) who argues that “(i)n the context of a neo-patrimonial system, informal borderland activities do not necessarily advance the process of state failure, and they even reproduce and sustain the state in its current condition.”

Examining the role of smuggling in state-building processes in the United States (Andreas 2014) and Bosnia (Andreas 2008), Andreas has traced how smuggling has also accompanied and shaped state-building processes beyond the border and immediate borderlands. Smugglers have appeared as combatants in independence struggles, and have contributed to the expansion of states' bureaucratic and coercive power by motivating the creation of new enforcement agencies (Andreas 1999). Notably, as in the case of the US Drug Enforcement Agency, smuggling has even played a role in justifying the expansion of executive agencies' jurisdiction beyond their state's borders (Andreas and Nadelmann 2008). These points echo in historical scholarship on banditry, for example in Egypt (Brown 1990) or the Ottoman Empire (Barkey 1994), where the – real or imagined – threat of bandits have similarly accompanied in the expansion and centralisation of the coercive apparatus.

More recently, a new wave of studies has drawn on the theoretical advances of legal pluralism and hybrid governance in order to trace the ways in which state and non-state regulatory structures interact in borderlands. Raeymaekers (2012a; 2012a; 2014) Titeca (2009; Titeca and Herdt 2010; Titeca and Flynn 2014) and Twijnstra (2014) directly cite Cleaver (2012; 2015), Lund (2006) and Olivier de Sardan (2008) in a set of studies that focusses on hybrid governance in borderlands. Hüsken (2009; 2017), based on an ethnographic study of the borderland between Libya and Egypt, argues that local tribal structures have contributed to an embedding and regulation of smuggling in the borderlands, where the Awlad 'Ali tribes function as “the de facto producers of trans-local order” (2017, 914), demonstrating the “stabilizing effects of transgressive borderland economies” (2017, 913). Titeca and de Herdt make a similar point in their analysis of practical norms in the borderlands of Uganda - rather than seeing these norms as undermining the state, they are “essential to the functioning of state institutions” (Ibid., 580), and a part of a continuing negotiation of the status quo, rooted in “fundamentally different perceptions of licitness”. In Helmke and Levitsky's (2004) framework, the institutions described here would appear to be ‘complementary’ to state institutions: “because practical norms help government institutions to function, the state is careful to conserve them” (Titeca and Herdt 2010, 590).

Noting, like Nugent, that states and smugglers are neither independent not necessarily adversarial in shaping local systems of regulation, these studies have primarily

emphasised the positive regulatory implications of these trade networks as local and legitimate alternatives to weak state institutions in a difficult context. They suggest that these hybrid arrangements may not simply undermine the state, but diversify its regulatory influence, allowing it to transform their authority from one based on force to one based on recognition and obedience by interacting with local legitimising structures (Hagmann and Peclard 2010). As Meagher (2014b) has criticised, however, the empirical evidence – constant waves of conflict in East Africa, the region of focus of many of these authors – raises questions about some of the more optimistic interpretations of hybrid governance in borderlands. Similarly, the works of authors such as Hibou (1999) or Reno (1998; 2000) have emphasised the risks of these forms of hybrid orders to the integrity of state institutions themselves, in particular, focussing on the ‘criminalisation of the state’ (Bayart, Ellis, and Hibou 1999).

The borderlands literature throws up a crucial question on whether the emergence of hybrid regulatory structures in the borderlands represents a shift of the locus of power from the centre to the periphery. While Nugent argues that “part of my objective is to establish that the character of the post-colonial state has been moulded through its unfolding interactions with border populations” (2002, 9), other studies have taken this claim further. In Raeymaekers’ description, the state is being ‘engulfed’ by legal pluralism (2012a, 318) and fundamentally *reshaped* at its border: “Through the gradual colonialization of bureaucratic practice, this highly regulated cross-border market exchange even seems capable of imposing its normative order on state agencies and institutions” (2012a, 324). Similarly, Titeca and De Herdt (2010) in their study of informal cross-border trade in North-West Uganda find that the trade is structured by ‘practical norms’ (Herdt and Oliver de Sardan 2015) which are “mediated through the power wielded by the cross-border traders, who effectively dictate terms to government officials” (Titeca and Herdt 2010, 573). If we want to learn about the changing nature of the state, it is argued, the front-line of its negotiation is at the border.

In contrast, Meagher’s (2014) has noted that the creation of new regulatory structures does not necessarily imply a shift of the locus of power away from the centre. In the case of Nigeria and Niger, for example, many large-scale smuggling operators have their apex markets in major cities and the capital, rather than in the periphery. “Far from creating new sites of power”, Meagher argues, “these networks have played a

key role in consolidating state power, using symbiotic relations between political and clandestine commercial elites to oil patron-client networks and mobilize electoral support for those in power” (Meagher 2014b, 14). In addition to the question of a shift of the locus of regulatory power between the domestic centre and periphery, the question also emerges whether the embedding of regulatory arrangements around cross-border informal trade within international trade structures moves the locus of power beyond the periphery, and into the sphere of international value chains and global trade structures (Meagher 2003; Raeymaekers 2012b).

Building largely on the hybrid governance literature outlined in the earlier section, some of the critiques of these approaches similarly apply to parts of the borderland literature, particularly an empirical neglect of the power relations created through hybrid institutions, and a lack of a theoretical framework that can provide a structured account of their role in state-building. Titeca and Flynn (2014) distinguish between forms of illegal trade that are tolerated because they are rooted in local norms and distributional ideals while others continue without any local legitimacy due to ‘strategic groups’ (Bierschenk and Olivier de Sardan 1994) of local businessmen and bureaucrats who defend their interests. Similarly, Titeca and De Herdt write that “the concrete manifestation of norms will depend on the specific configuration of power that sustains the *modus vivendi* of different social actors in a specific domain” (Titeca and De Herdt, 579). There is, however, little discussion to how these power structures within the borderlands affect the wider conclusions of these literatures on the locus of power in the borderlands, as well as their relationship to state building.

Consequently, calls for an analysis of practical norms and hybrid governance structures in borderlands that put questions of power front and centre have become increasingly present within the literature, and have been expressed by many of the authors cited here. Raeymaekers calls for an analysis of the political geography of cross-border relations that can “highlight the more subtle dimensions of power and authority at the border, which are seen to operate through particularly gendered constructions and political hierarchies” (Raeymaekers 2012b, 345).

Given its macro-level focus on state structures and concern for the role of informal institutions, a political settlement approach suggests itself as an effective framework for connecting local regulatory analyses to larger questions about borderlands,

smuggling and state-building. Somewhat surprisingly, there have so far been very few applications of political settlement approaches to borderlands.¹³

One of the most systematic and explicit applications of political settlement analysis to smuggling economies can be found in the work of Jonathan Goodhand on Afghanistan (2004; 2005; 2008; 2012), although his focus is on drug production and smuggling rather than informal cross-border trade in licit goods. Goodhand 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 hence concludes that, as it provided rents necessary for the stability of the settlement, illegal trade did 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 flows, and their control, may actually strengthen the state" (Goodhand 2012, 334). His account demonstrates the insights that a political settlement approach can generate with respect to border economies, by providing a clear empirical structure – from regulatory institutions to rent streams to the position of various groups in the wider balance of power – to examine the relationship between drug production and trade in the borderlands and wider regime stability. From a political settlement perspective, Afghanistan's borderlands are neither outside of the settlement nor subverting it, but essential to it.

Interestingly, Goodhand not only suggests that some type of illegal trade activities may be more conducive to stabilising a political settlement, but also that drug production, despite its more subversive reputation, may be one of them. Drawing on Snyder's (2006) analysis of the political economy of extraction and lootable wealth, Goodhand suggests that if resources are subject to regimes of joint extraction, where both state actors and local actors require the assistance and cooperation of the other, conflict is less likely. As opium lends itself to joint extraction regimes (it is difficult for private actors to monopolise the trade without state collaboration, and it is difficult for the state to entirely run the opium trade), it would therefore act as a catalyst for an

¹³ More recently, there has been some work on political settlements in borderlands in the context of peace-building, but as this has focused on active conflict contexts, this is somewhat less relevant to the discussion here (Plonski and Yousuf 2017).

institutional set-up that would both draw borderland actors into the political settlement, and emphasise hybrid or co-created institutional structures. However, this is not the only factor involved, as Goodhand points out: “Whether drug-related corruption is stabilizing or destabilizing depends on the level of centralization, the nature of the bargains struck between rulers and private actors, and the role of international policies” (2008, 414).

Goodhand stops somewhat short of providing a full political settlement analysis of the trade he describes - he does not provide a systematic discussion into the inclusiveness the political settlements he analyses, or how the inclusion through informal institutions affects the actors involved, although he notes both the privileged role of large-scale connected traders, and the challenges faced by local agriculturalists. Crucially, Goodhand’s work then demonstrates not only the insight that a political settlement analysis of rents, institutions and state-building can provide into the relationship between states and smuggling economies, but also how an empirical application of political settlement analysis to borderland contexts can highlight key conceptual challenges within the political settlement framework itself.

Goodhand and Meehan have highlighted that political settlement analysis to date “lacks an explicit analysis of space and territory” (2018, 14), pointing to its tendencies to underplay international and regional dimensions, underestimating the importance of subnational bargaining processes and the significance of centre-periphery relations. More fundamentally, the need to understand the localisation of political settlements goes beyond the analysis of localised sub-national political settlements alone. As even national political elites typically have a geographic origin or support base, all political settlements are in some form localised, and their modes of incorporation have regional and sub-national implications.

Simplistic spatial analyses of political settlements as primary and secondary political settlements (Parks and Cole 2010) as discussed above are complicated by the observation in the borderlands literature that key elites controlling smuggling economies are not always themselves confined to borderlands. More fundamentally, examining political settlements from borderlands demands a more fine-grained account of how local populations relate to the settlement itself, and how, if at all, it can be shaped and changed ‘from below’. As Pospisil and Rocha Menocal (2017) have

pointed out, political settlement approaches often fail to “address the complexity of the linkages between elite inclusion and broader social inclusion, and the different ways in which non-elite actors can exert pressures to alter political settlements” (553). Examining the role of borderlands in political settlements brings these question front and centre. This is where the work of this thesis begins.

Chapter 3: Mapping Smuggling in North Africa

3.1 Introduction

In recent years, the civil war in Libya, the creation of new border fortifications and the increase in migration across the Mediterranean have created a new surge of interest in the borderlands of North Africa, and particularly their smuggling industries (Cassarino 2017; Meier 2018). This stands in contrast with a relatively sparse literature on smuggling in the region, especially when compared to Sub-Saharan Africa. As this chapter highlights, however, North Africa provides a fitting environment for the study of smuggling and state-building. The region is home to large and diverse smuggling economies, the political role of which has been framed in various ways throughout the region's history – from peripheral to unruly, from marginal to subversive. Crucially, a re-examination of their role in the region today speaks directly to critical themes in its modern politics, from the future of its security infrastructure to the erosion of its social contracts.

This chapter is made up of three sections. The first provides a brief introduction to central themes in the history of borders, borderlands and smuggling in North Africa. The second provides a mapping of the modern macro-structure of smuggling in the region. The third section then situates the project's two case studies within these histories and geographies.

3.2 Borderlands in North Africa

As in most of the world, trade in North Africa predates the borders that now make it 'cross-border' trade. Scholars of informal trade in Algeria (D. J. Scheele 2012; J. Scheele and McDougall 2012), Tunisia (Laroussi 2007), Libya (Hüsken and Klute 2015) or Morocco (Daoudi 2015) have highlighted long histories of trade stretching back to the caravans that have for millennia connected and supplied a vast territory from the Sahara to the Mediterranean and from the old cities of Fez to Cairo. Mobility of goods related closely to the mobility of people, as patterns of trade and nomadic patterns of movement overlapped and connected (Laroussi 2007). As Scheele (2012), Ellis (2018) and others have noted, while trade in the region pre-dates the economic

regulatory systems of the modern nation-states, it has been structured by – and contributed to the formation of – centres of tribal and religious power.

As early state structures developed in the region, their relationship with centres of power in their territorial periphery was not solely characterised by competition over control or legitimacy but also by co-existence and indirect rule. The most famous sociological history of the region, Ibn Khaldûn's 'Muqaddimah' (1377), is centred around the relationship between the tribes of the *makhzan*, the proto-state, and *siba*, the nomadic periphery. He describes a circular, dialectic vision of rule, in which dynasties rise, until the relationships that maintain them weaken, and they are conquered by tribes from the periphery, who form a new dynasty to rise and eventually fall. While Khaldun's description of the relationship between centres and peripheries is at first glance antagonistic, the two still remain closely intertwined in shifting alliances, raids and connectivities, the periphery both a refuge and a centre in waiting. More modern historical accounts primarily highlight a coexistence between political centres and centres of power in the periphery alongside forms of selective and indirect rule. Ellis notes the Egyptian state's reliance on tribal communities in Siwa as indirect providers of order and regulation (Ellis 2018). Anderson's account of state-building in Tunisia and Libya notes relatively limited interactions of tribal communities in Southern Tunisia with the central state, which rarely interfered in tribal matters and limited itself to the collection of taxes through regular military campaigns, the so-called *mahalla* (Laroussi 2007, 62; Anderson 1987, 66).

Any account of the history of smuggling in North Africa however needs to begin without a notion of borders and of territorially defined centralised polities with a claim on regulating trade. The emergence of both in North Africa, and hence of smuggling in the region, is intimately related to the history of colonial rule. The modern borders in North Africa, as in most parts of the continent, were largely established as borders between colonial territories. While the infamous 1916 Sykes-Picot agreement has become a popular shorthand used by scholars and activists to decry the artificiality of colonial borders in the Middle East and North Africa, the region's borders were largely defined in a set of separate agreements with Spain, France, the Ottoman Empire, Italy and the United Kingdom, and only slowly enforced on the territory (Meier 2018; Cassarino 2017).

Alongside the demarcation and control of geographically fixed borders, colonialism also contributed to a shift in the conceptualisation of statehood in the region from population to territory. The Ottoman Empire had claimed sovereignty over all Sunni Muslims, the Kingdom of Morocco over all those who said their prayers in the name of the Caliph of the West (Zartman 2017). Ibn Khaldûn (1377) conceptualises state power not as territorially delineated, but emanating outward from a political centre over populations.¹⁴ As Zartmann notes, the two conceptions – the territorial state and its traditional predecessor – met at some point of history - of population density. While French colonial control of Algeria led to the official drawing of a line limiting the northern part of Morocco in 1845, the line stopped south of the small desert oasis of Figuig, as it considered a border further south “superfluous” because there were no people there (Zartman 2017, 938).

The colonial period also contributed to the organisation of borderlands as distinct spaces. When borders split long-standing tribal territories, colonial regimes employed policies aimed at sedentarising nomadic tribes within these territories, while structuring and accessing trade routes, heralding “the end of the political autonomy of the hinterland” (Anderson 1987, 138). Colonial administrations became directly involved in setting up trading posts, markets and entire urban centres in borderlands, occasionally bringing in populations from other regions in order to populate settlements (Laroussi 2007; Katan 2000). Frequent use of military zones along newly established borders also saw borderland communities commonly experiencing a more militarised form of governance under colonial rule than their counterparts in the political and economic centres (Laroussi 2007). Unsurprisingly, the colonial period saw a range of anti-colonial uprisings in the region’s newly created borderlands (Mullin and Rouabah 2018). The *Weghemma* tribal federation on the border between Libya and Tunisia, for example, which had seen their territory divided, became a primary site for resistance against colonial occupation, taking advantage of the newly divided jurisdiction by providing resistance fighters refuge across the border, and by continuing to move goods and arms – what had now become smuggling (Laroussi 2007).

¹⁴ This conception in parts resembles that in Kopytoff’s (1987) classic account of African borderlands.

Despite their colonial origins, North Africa's borders, borderlands and state system have survived the end of colonial rule and the establishment of independent states. A brief period of enthusiasm around pan-Arabism and plans for the creation of a federal union that could have diminished the importance of the region's borders quickly devolved into competition, rivalry and border disputes. The region's colonial borders were formally accepted at the Organisation of African Unity summit in Cairo in 1964. Since then, even though some actors have challenged the legitimacy of these borders, and some disagreements remain, they have remained remarkably stable, and have become a remarkably resilient element of the modern political structure of the region (Zartman 2017; Cassarino 2017; Fawcett 2017).

While independence re-shaped the region's politics, state-building projects across North Africa maintained many of the centralised political institutions inherited from the departed colonial powers, as Willis notes, "not just out of necessity but in full consciousness of the fact that the colonial structures had been designed with the specific objective of establishing full and exclusive political control of the country" (Willis 2012, 64). Even though actors from peripheral regions were involved in the independence struggles, post-independence politics, especially in Morocco and Tunisia, found itself primarily located in the political centres, with elites from peripheral regions frequently marginalised at the expense of increasingly personalistic regimes (Willis 2012, 38; Salihi 2017; Ayubi 1996, 117-21; Long and Reich 1995, 464). Uprisings in the region's peripheries, such as revolts in Morocco's Rif mountains, and Tunisia's interior regions were defeated militarily and did not significantly counteract the centralising tendencies of post-independence states (Ahmed and Akins 2012; Perkins 2014, 135-55).

Partially tied to nationalist, personalistic or Pan-Arabist programs, many states in the region set about to pursue national ideologies that were largely antagonistic to the idea of peripheral communities as alternative markers of identity and political spaces. In Tunisia in particular, the post-independence regime of Habib Bourguiba abolished tribal lands, decried tribal structures as 'archaic' (Masri 2017, 210), and systematically undermined local identities at the expense of a direct allegiance to the nation-state (Charrad 2011, 55). In contrast, the consolidation of the monarchy in Morocco involved an incorporation of tribes into the national narrative, alongside their political co-optation by the palace, relying on them as a counterweight to urban elites.

However, this too co-existed with an increasing centralisation and domination of national politics by the palace, particularly at the expense of tribes in peripheral regions, as colonial provisions granting autonomy to Amazigh regions were rescinded (Charrad 2011, 60).

While the post-independence years across North Africa shared centralising state-building processes, their underlying political projects were marked by institutional and ideological divergences, alongside rivalries, distrust and shifting regional and international alliances. A rivalry between monarchic, economically conservative Morocco and socialist, Third-Worldist Algeria, fuelled by diverging ideological positions, international alliances and disputes over the status of the Western Sahara, has dominated regional relations in the post-independence period (Willis 2012, 265). Further east, a failed attempt at uniting the two countries deepened distrust between the Tunisian and Libyan administration (Masri 2017, 207).

Crucially for the topic at hand, divergent political trajectories also spawned divergent economic projects and contributed to a failure to create institutional structures for economic co-operation and coordination across the Maghreb (Willis 2012, 287). Formal trade between North Africa's states remained limited, trade relationships were primarily towards Europe, and projects to build regional trade infrastructure stalled (Malik and Awadallah 2013; Kireyev et al. 2018). This left not only the region as one of the least economically integrated regions in the world, but also limited formal employment opportunities in the borderlands. At the same time, divergent price, tariff and particularly subsidy regimes, driven in particular by the hydrocarbon wealth of Libya and Algeria, created opportunities for arbitrage trade. Increasingly, borderland populations began exploiting arbitrage opportunities and their ability to move across the region's borders, bringing across gasoline, couscous, consumer goods. As these activities expanded, informal cross-border trade – smuggling – began to rival formal trade volumes at various borders in the region (Ayadi et al. 2013), providing employment and income to borderland communities. It was at this moment of political and especially economic divergence, in the 1970s and 1980s, when smuggling in North Africa developed the broad macro-structure that can be observed today, and that this dissertation seeks to analyse. Section 3 of this chapter will provide a systematic mapping of this structure, alongside its key trade corridors, goods and drivers.

What are the politics of this expansion of informal cross-border trade? Anthropological accounts of borderlands in the region have noted that despite nationalising discourses from the political centre, tribal markers of identity have not entirely disappeared (D. J. Scheele 2012; Hüsken 2018; Laroussi 2007). This has led some to argue that today's smuggling routes may reflect the resilience of traditional non-state structures of authority (Laroussi 2007). However, as related work in the African borderlands literature has pointed out, the continued observation of the transgression of borders does not necessarily imply continuity in the motivation, structure, and organisational form of the trade (Meagher 1997). At the same time, the expansion of smuggling has also seen interventions by elites from the political centre in structuring and influencing informal trade in the borderlands for their own financial benefit, such as the clan around President Ben Ali in pre-revolutionary Tunisia (Meddeb 2012). As a result, the role of smuggling in post-independence politics, and whether the organisation of the trade represents the continuity or re-emergence of non-state organisational forms or is more closely connected to state structures, political elites, or simply corruption, remains an open question.

Three developments in the first two decades of the 21st century brought renewed attention to borderlands and their role in regional politics.

The first has been the expansion or rising prominence of jihadi movements in the region. Notably, these have both ideologically decried the illegitimacy of the region's national borders as colonial and oppressive constructs (Cassarino 2017), and repeatedly used the region's borderlands to move people and arms, establish temporary footholds, as well as stage attacks against neighbouring jurisdictions (Boukhars 2018). An analysis of the origins of North African IS members noted, a particularly high number of recruits stem from Tunisian border regions (Rosenblatt 2016). Consequentially, fears of an "unholy alliance" between smugglers and jihadi groups became increasingly prevalent in policy and media narratives (Fabiani 2019; International Crisis Group 2013).

The second and directly related development has been the increasing regional and international concern with border security in North Africa. Key factors here have been the post-2001 'war on terror' agenda (El-Khawas 2003), the conflicts in Libya and Mali in the 2010s, as well as increasing European concerns with the regulation of

mobility in the region (Andersson 2014) following the increase of irregular migration across the Mediterranean in the mid-2010s. These interlocking developments led both to an increasing attention to borderlands in the region, and increasing investments into physical security infrastructure along the region's borders, including new walls and fencing alongside sections of the border between Morocco and Algeria, a trench along sections of Tunisia's border with Libya developed in 2016, and substantive expansions of the fencing around the two largest Spanish enclaves in Northern Morocco, Ceuta and Melilla (Hanlon and Herbert 2015).

The third and perhaps most important development in the region in the past decade has been a set of popular uprisings in 2011 which led to the downfall of regimes in Tunisia, Egypt and Libya and provided a shock to the region's politics. With the self-immolation of an informal vendor in Tunisia as one of the early symbols of the "Arab Spring", youth unemployment, economic informality and socio-economic marginalisation emerged as prominent themes in the protests (Jamal and Robbins 2015).

Consequently, the post-2011 years across the region have seen renewed discussions on the fragility of the region's social contracts, their effects on youth and labour markets, and the need for more 'inclusive' development (Devarajan and Mottaghi 2015; Ianchovichina 2018; Hertog 2017). Across the region, the somewhat stylised picture of post-independence social contracts had been one of "authoritarian bargains" – the exchange of political acquiescence to authoritarian rule for a set of primarily formal benefits including expansive subsidies, opportunities for public sector employment, high public spending and expansive state intervention (Amin et al. 2012; Assaad 2014). Towards the end of the 20th century, however, changing demographics alongside increasing pressure to decrease public spending in the context of structural adjustment programs in the region had increasingly constrained states' ability to hold up their end of the bargain. At the same time, the old distributional regime had fostered insider-outsider divisions within the private sector, hampered its ability to create private employment for a new generation and increasingly segmented the labour market (Hertog 2017; 2016; Assaad 2014). As the portion of public sector jobs decreased, much of the region's youth moved on to finding more precarious employment in the informal sector, seeing a decrease in their future prospects and

increasingly dissatisfied with their role in the dominant social contract (Assaad and Boughzala 2018; Assaad and Krafft 2016; El-Haddad and Gadallah 2018).

Borderlands have played a particular role in these dynamics. Levels of informal employment were already disproportionately high, and arbitrage trade made smuggling economies indirectly dependent on subsidy regimes (Malik and Gallien Forthcoming). Most importantly, however, the years after 2011 increasingly saw borderlands framed as a space where these different dynamics - crumbling social contracts, a dissatisfied youth, popular mobilisation, radicalisation, migration and insecurity – interacted and reinforced each other, and hence where new discussions of political and economic inclusion were of particular urgency (Boukhars 2018; International Alert 2016). Tracing these dynamics in these spaces, however, requires an analysis of their political economy and how it has been affected by these developments. Studying North Africa's border economies post-2011, therefore, can both contribute to understanding the role of smuggling in the region's politics, and provide wider insights into some of the central discussions on the politics of the region today.

3.3 Mapping Smuggling in North Africa

While smuggling is at times conceptualised as a product of individual-level incentives and hidden networks, borderland scholarship has long highlighted the existence of persistent and researchable macro-structures of smuggling, shaped by territorial arrangements, political institutions, economic structures and global trade routes (J. O. Igue and Soule 1992; Dobler 2016; Meagher 1997). Based on existing scholarship, fieldwork and policy reports, this section outlines the contours of a macro-structure of smuggling in North Africa. As discussed above, many of the modern smuggling routes broadly developed their current directions starting from the 1970s, in the context of political divergence and poor formal economic integration in the region. While the past decades have seen a variety of changes in flows and drivers, this section will focus on the larger structure, with subsequent changes discussed in depth in later chapters.

Identifying a macro-structure of smuggling in North Africa is complicated through the immense diversity of goods traded which follow different routes, drivers and structures. Varying tax and especially subsidy regimes have created price differences, and significant incentives for arbitrage trade, especially on the borders of the

hydrocarbon-rich Algeria and Libya. At the same time, varying and high tariffs and non-tariff barriers, a widespread feature in the region,¹⁵ have created incentives for trading outside of formal channels, both within the region and in connection with global trade links. While trade in illicit goods similarly both reacts to demands within the region and connects it to wider global corridors of the drug and arms trade, drivers here are less structured around price differences and more around the unavailability of formal trade channels for certain goods and actors. This section provides a brief overview of the main trade routes for the most commonly traded goods, before drawing out the crucial nodes that make up the geography of informal trade in North Africa.

3.3.1 Gasoline

Although it has not received the same media attention as drug smuggling or human trafficking, there can be little disagreement that in terms of its dollar value, quantity, and employment effects, gasoline is the most central informally traded good in the region. Here, price differences created through subsidies act as the key driver, and the region can be easily divided into two production countries – Algeria and Libya – which supply their neighbours, Morocco, Tunisia, Mali, Chad, Niger, Sudan and Egypt. This dynamic is illustrated in Figure 3. Smuggled quantities here are large enough to plausibly have a significant effect on expenditure on gasoline in destination countries - in 2013, estimations suggested that around one-quarter of the gasoline consumed in Tunisia had been smuggled in from Libya or Algeria (Ayadi et al. 2013, 7). There is a huge diversity in the quantities of gasoline traded – while some is transported in 20-litre cannisters across borders on donkeys and motorcycles, especially Libya has in recent years also seen large volume quantities smuggled towards Italy and international markets via oil tankers (Eaton 2018; Manocchi 2019). By building primarily on price differences driven by subsidies, which make up a significant section of state expenditures in Libya and Algeria, the rent streams created through gasoline smuggling thereby are directly connected to state budgets and mechanisms of redistribution. This is particularly noteworthy in Libya, which is a large exporter of crude oil, but still largely imports its refined gasoline from abroad (Eaton 2019). As

¹⁵ This has been connected to the protection of politically connected business elites (Eibl and Malik 2016).

will be discussed in Chapter 8, 9 and 10, the last decade has seen increasing pressure on gasoline smuggling networks, as a result of novel border fortifications in Algeria and Tunisia, alongside the deteriorating security and economic situation in Libya.

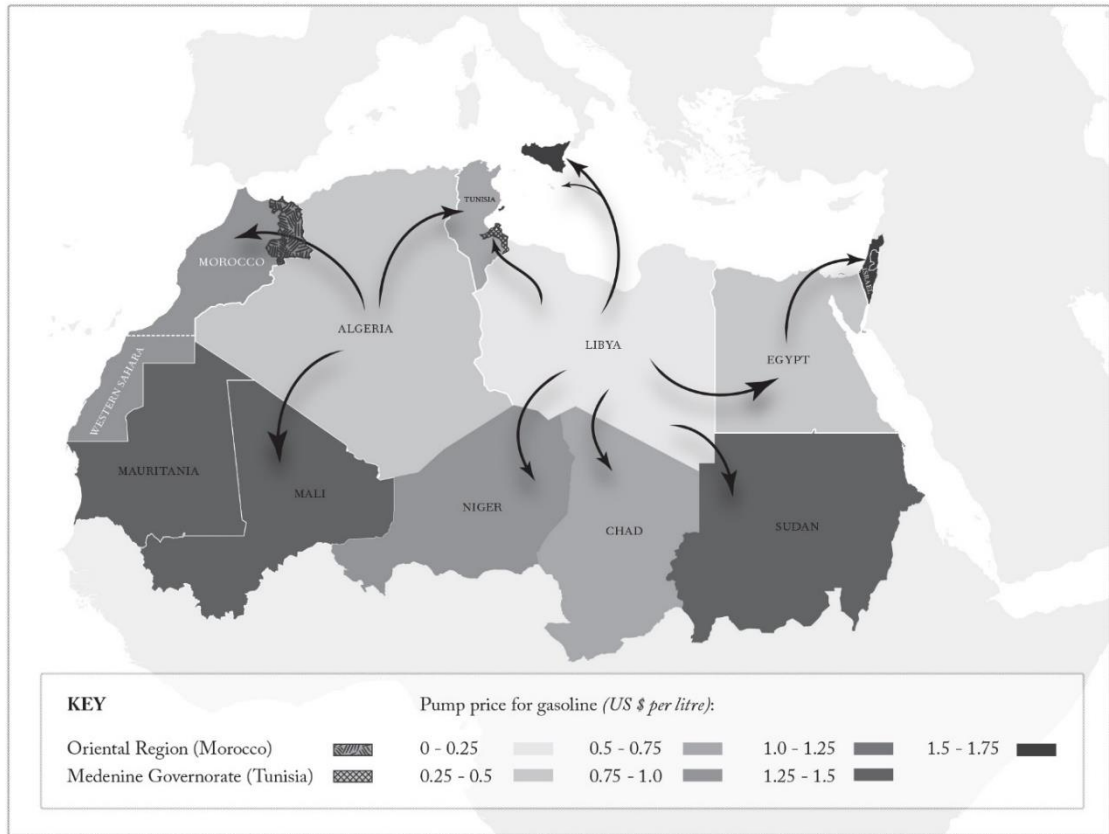


Figure 3: Key corridors for gasoline smuggling in North Africa, price differences, and case studies.

(Source: author, Gallien (Forthcoming))

3.3.2 Non-Hydrocarbon Licit Consumer Goods

Non-hydrocarbon consumer goods not produced in North Africa represent a wide set of commonly informally traded goods in the region. Their origin is typically China, Japan or South Korea, as well as Turkey, the special economic zones of the Arab Peninsula, and to a lesser degree the European Union. Key drivers are usually heterogeneous tariff regimes, tariff evasion, and to a lesser degree the unavailability of specific goods in local markets due to sanctions or poorly developed formal trade channels.¹⁶ The most commonly traded goods in this category include a variety of

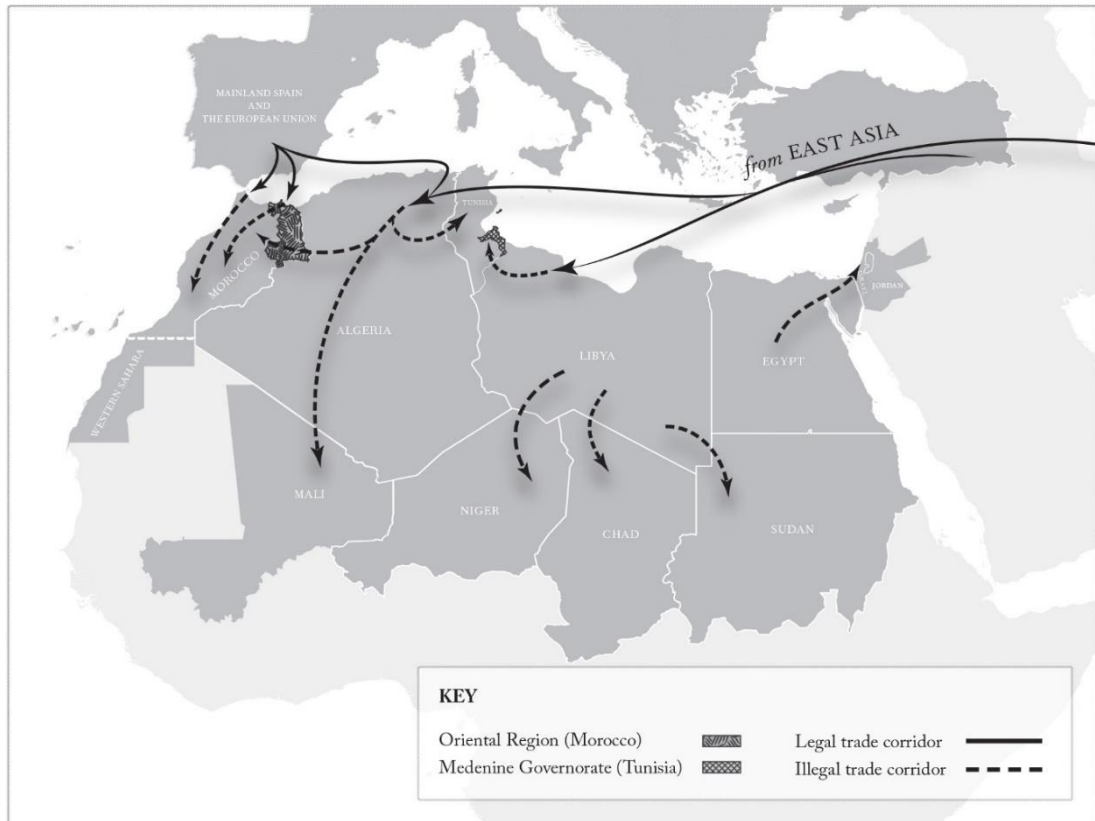
¹⁶ This dynamic has been particularly important in the context of Libya during the height of the sanction regime following the gulf of Sidra incident in 1981, but has been less relevant in recent years.

fabrics such as clothes, carpets and bedsheets, white electronics including microwaves, fridges, air-conditioners and phones, household items and kitchenware, stationery, cosmetic products, and toys (Laroussi 2007; Ayadi et al 2013; Houat 2004; Meddeb 2012).

As Figure 4 shows, this trade connects the region to wider global supply links that ship to selected countries in the region, from which goods are distributed across the region through smuggling networks. Countries with lower import tariffs than their neighbours, Algeria and Libya, act as ‘entrêpot’ states (J. O. Igue and Soule 1992) exporting informally to their neighbours, alongside the two Spanish enclaves in Morocco, Ceuta and Melilla, which benefit from their status as ‘freeports’. While much of these goods reach Egypt, Tunisia or Morocco via one of the ‘entrêpot’ states, some goods are also imported directly to these three countries but are connected to tariff-evasion through under-reporting in the ports (ML4, ML1). As in the case of gasoline trade, smuggling here is frequently framed as a drain on state income in destination countries via tariff shortfalls (World Bank 2017; Ayadi et al. 2013), these networks do contribute to the tariff income of the countries and free ports¹⁷ into which they are legally imported. While the gasoline trade described above usually only involves movement across one border, the trade in these goods is frequently embedded in more complex global networks that often include direct contacts to producers in Asia as well as multiple transporters, merchants and financial intermediaries.

¹⁷ Although technically free ports, the Spanish enclaves of Ceuta and Melilla do collect a small fee on imported goods, the IPSIE (see Chapter 7.2).

Informally traded cigarettes are also a common feature across the region, making up 20% of consumption in the Maghreb countries (KPMG 2017). Most of these cigarettes are so-called illicit whites, cigarettes with no legal distribution in the respective country, largely produced by trademark owners based in Free Trade Zones in the UAE. Algeria, with a lower price regime of formal cigarettes than its neighbours, has a relatively lower level of consumption of illicit whites, but maintains significant outflows towards both its neighbouring countries and Europe (Ibid.).



*Figure 4: Key corridors for the smuggling of non-hydrocarbon consumer goods in North Africa, and case sites.
(Source: author, Gallien (Forthcoming))*

3.3.3 Food

The informal trade of foodstuff in the region is as widespread as it is diverse. Both packaged staple product like couscous, spaghetti or olive oil, and fresh products like fruits, vegetables or livestock are commonly traded informally due to price differences or domestic availability (Ayadi et al. 2013; Houat 2004; KPMG 2017). Food shortages, particularly in times of conflict, have repeatedly given this trade additional importance. Scheele (2012) argues that the food supply in Northern Mali would be impossible to sustain without informal trade networks from Southern Algeria and that

their absence would likely lead to a severe humanitarian crisis. A similar argument likely applies to informal trade networks between Egypt and the Gaza strip (City 2013; Pelham 2012), as well as at times during the civil war in Libya. However, with the diversity of different foods traded across the region's borderlands, and frequently shifting patterns, no clear macro-structure for this trade emerges in the region.

3.3.4 Illicit goods

In order to identify a macro-structure of the smuggling of illicit goods in the region, a finer distinction between different trades is necessary, particularly between various narcotics and the arms trade. With Morocco retaining its role as the largest producer of cannabis in the world, North Africa represents a production, transit, and to a lesser degree consumption market for cannabis-based products (Barzoukas 2017; Blickman 2017; Afsahi and Darwich 2016). Largely produced in the Rif mountains of Northern Morocco, these are either smuggled directly to Spain, or in recent years increasingly moved eastward through North Africa, before commonly also ending up in Europe. In the global cocaine trade, North Africa takes up a crucial role, albeit primarily as a transit corridor. Produced in Latin America, cocaine has largely been transported to West Africa, from where it is taken North through Morocco or Libya, and finally to Europe (Hanlon and Herbert 2015; UNODC 2019).

As Figure 5 highlights, North Africa primarily functions as a country of origin and transit for drug smuggling, with destination markets primarily being located further to the East or in Europe. However, in recent years it has become an increasingly important consumption market for a variety of synthetic drugs and amphetamines, including ecstasy, Tramadol, an opioid-based painkiller, and a variety of psychotropic prescription drugs, many of which are produced outside of the region and imported through its ports (Gallien and Herbert forthcoming).

The 2011 uprising in Libya, as well as the protracted civil war that started in 2014 has transformed the regional macro-structure of weapons smuggling. Here, Libya has emerged as a crucial consumption market of both weapons and ammunition, and likely increasingly a transit country as well. This trade has seen the engagement of a wide variety of actors, including international backers of factions in the Libyan conflict, the Touareg and Tebu groups in Southern Libya, some members of borderland

populations as well as international criminal networks (Kartas 2013). As research by Small Arms Survey indicates, an increasing amount of the organisation of this trade is now conducted online (Jenzen-Jones and McCollum 2017) and increasingly ties the region to manufacturing centres in Europe, China and Russia, as well as conflict zones in the Sahel.

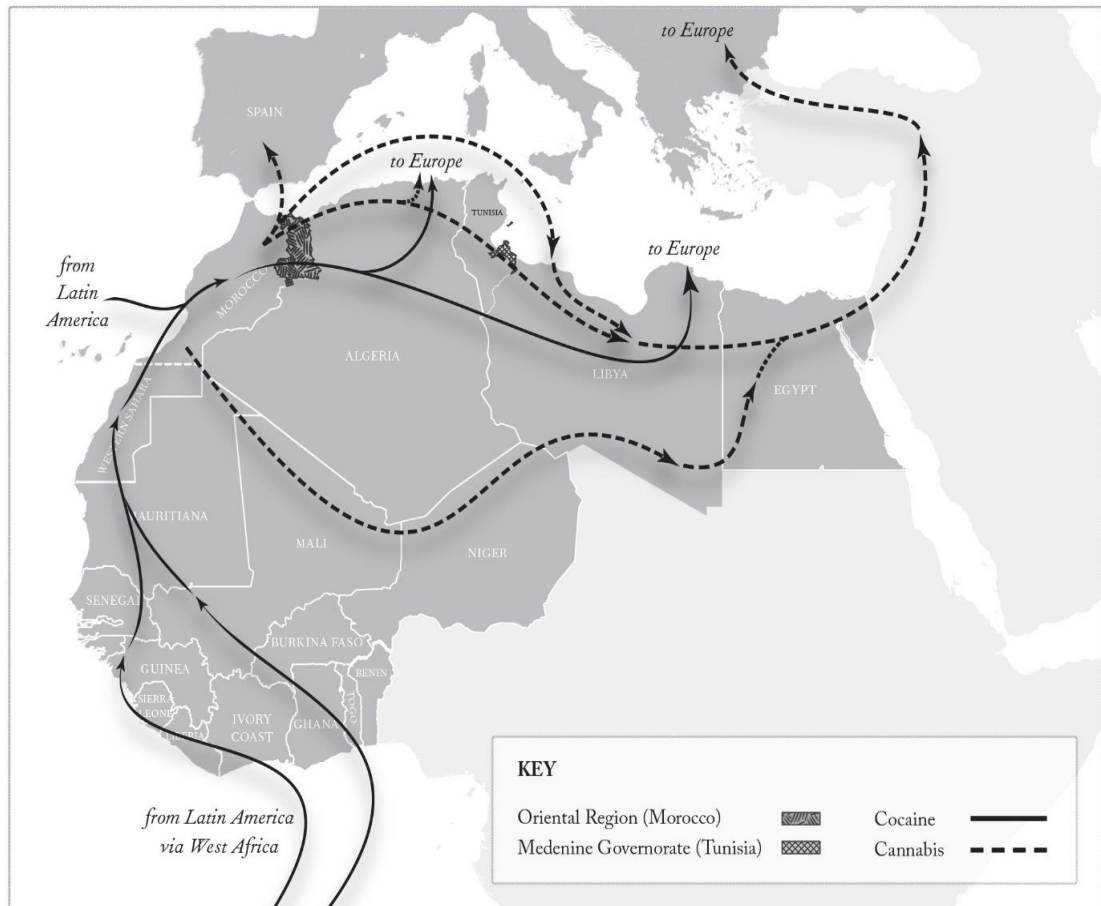


Figure 5: Key corridors for the smuggling of cannabis and cocaine in North Africa, and case sites.

(Source: author, Gallien (Forthcoming))

3.3.5 Migration and Human Trafficking

While migration and human trafficking from North Africa has been a long-standing issue that has fundamentally structured the relationship between North African states and the European Union, it gained additional prominence since 2011, as the weakening of the security infrastructure in Tunisia and Libya opened up new routes for migrant smuggling, and the civil war in Syria alongside a protracted economic crisis in the

region increased the number of those looking to cross the Mediterranean (Werenfels, Weber, and Koch 2018; Herbert 2016).

While South-North human smuggling routes exist across the region, their relative importance has varied in recent years. Departures from Tunisia's beaches saw spikes in 2011 and 2017 (Gallien and Herbert 2017), while departures from Libya reached an enormous scale in the years after 2011, before decreasing in 2017 following a shifting enforcement environment within Libya, partially resulting from incentives provided to local armed groups by European actors (Althai Consulting 2017; Micallef 2017). Recent years have seen departures from Morocco's beaches increase substantially (Herbert 2019), while the fences between Morocco and the Spanish enclaves of Ceuta and Melilla have been focal points for decades (Soto Bermant 2014).

An alternative route of human smuggling has linked the countries of North Africa to the war-zones in Syria, Iraq and Libya. The smuggling of aspiring "foreign fighters", became an important element of the military operations of extremist groups in the region, with the Islamic State gaining particular prominence after 2014 (Rosenblatt 2016). Common routes here have connected Morocco, Algeria and Tunisia with Libya, from which fighters either joined the Libyan segments of IS or flew to Turkey, from where they then crossed into Syria. Given the vast geographic reach of these networks, they have included a wide variety of local and regional actors, reaching from recruiters in Sub-Saharan Africa to criminal networks in central and southern Europe (Masbah 2019; Pham 2011; International Crisis Group 2017). With the collapse of ISIS territory in Syria and Iraq from 2017 onward, increasing concern in the region has been around the movement of fighters back to North Africa (Renard 2019).

3.3.6 Geographies of Informal Cross-Border Trade

As this very brief mapping of some of the main smuggling routes in North Africa has demonstrated, there is not one generalizable macro-pattern of informal cross-border trade in the region, but a variety of different structured patterns for different commodities. While the commercial logics of these streams appear relatively separate, this is not to imply that they are in no way interdependent. At least two points of connection between different trades, however, are worth pointing to. One involves financial services: while poor currency convertibility is not a driver behind smuggling

activities in the region in the same way that it has been in areas with uneven landscapes of currency convertibility¹⁸, a variety of different networks are relying on parallel foreign exchange markets. In some cases, such as Southern Tunisia, informal financiers not only buy and sell currency but are also provide a variety of financial services such as credits and loans for large-scale wholesale trade (Meddeb 2012). In addition, they also organise international transfers, typically through hawala networks. Hawala banking involves a system of brokers in a variety of countries, who conduct transactions with each other primarily through a system of debt, trust and promise which does not typically necessitate the transfer of any actual currency.¹⁹

A second factor that connects different informal trade routes in North Africa is the emergence of nodes of informal trade across the region, as particular border-towns with a position close to a formal border crossing and large informal retail markets and infrastructure have become places where different trade routes converge and intersect, and have come to dominate local economies. The formal centres of commerce of North Africa – Cairo, Alexandria, Tripoli, Tunis, Algiers or Casablanca, are familiar to the casual observer of the region and have served to embed the region in the global economy primarily through ports and North-South linkages. However, if we observe the central nodes of smuggling routes in the region, another geography of regional trade emerges. At its heart are places like Nador, Tamanrasset, Zuwara, or Ben Guerdane – medium-sized cities in the geographic and economic periphery of their respective nation-states, and logistical centres of commercial networks that include strong East-West links across the region, alongside connections to Europe and the wider global economy. They are the centres of transport and wholesale for the region's informal economy, and their networks employ a significant section of the region's labour force. This, of course, does not imply or postulate that these nodes are also where all the 'action' is, that the region's formal political and financial centres don't hold any power over informal trade, or that influential traders in these networks are not still located in the capital cities – but it makes these nodes well-suited sites to begin studying informal trade in the region.

¹⁸ For examples of this, see the discussions of Meagher (1997) and Igue (1977) on smuggling in West Africa.

¹⁹ For more information on Hawala banking, see Thompson (2008), Qorchi et al. (2003), Schramm and Taube (2003).

Figure 6 below aims to give an overview of some of these key nodes – it is not meant to be exhaustive but highlights larger cities where a variety of different trade corridors intersect. Together with the trade corridors outlined above, it presents a first mapping of the geography of informal trade in North Africa. Together, they present the basis for the case selection for this project.

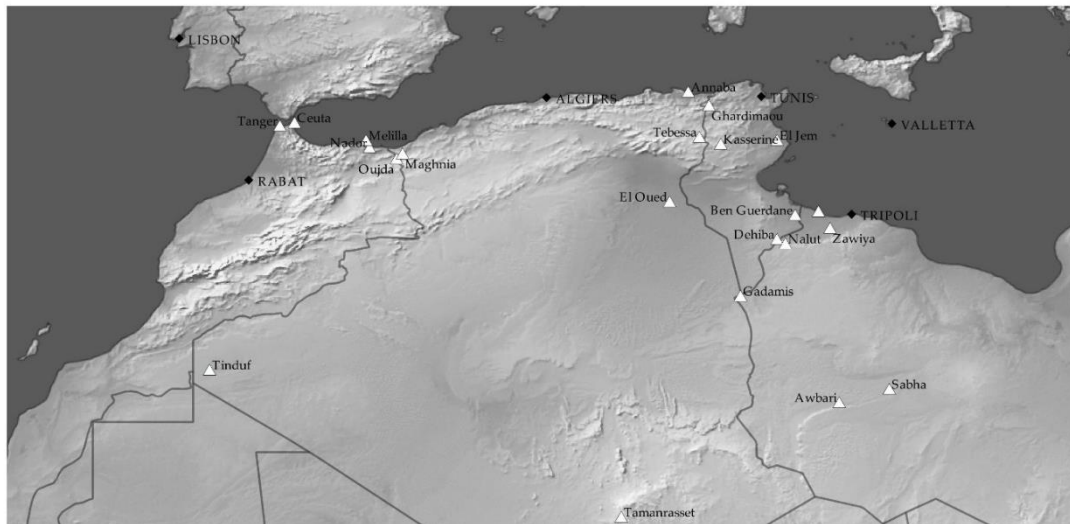


Figure 6: Key nodes of informal cross-border trade in the Maghreb (Source: author)

3.4 Project Case Studies

This project focuses on two case sites in North Africa: the Oriental region in Morocco, which includes the cities of Oujda and Nador, and the Medenine region in Tunisia, which includes the cities of Ben Guerdane and Medenine (see Figure 7). As Figure 3, Figure 4, and Figure 5 have highlighted, both regions are central nodes in the trade of both licit and illicit goods in the region. On a practical level, the two case sites provided an environment that is largely safe enough for data collection.²⁰

Most importantly, however, the two regions provide productive comparisons for the political dynamics that stand at the heart of the project. They share a range of structural factors that are characteristic of the borderlands in the region. Both lie in the political, geographic and economic periphery of their respective countries. In both the Oriental

²⁰ Chapter 4 will elaborate on this. Of the potential case sites, all locations in Egypt and Libya, along with Tamanrasset in Algeria and Kasserine in Tunisia did not meet the necessary security standards.

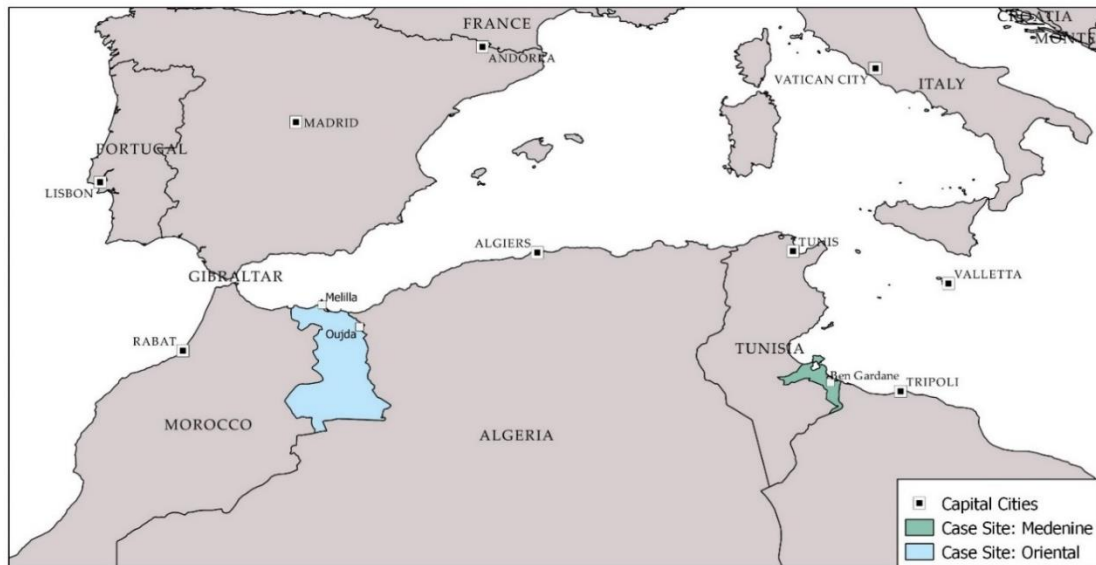
and Medenine, informal cross-border trade accounts for a significant part of the local economic activity and employment. While Morocco and Tunisia have developed different political systems (Tunisia abolished its monarchy in 1957, while it remains intact in Morocco), both have sustained relatively effective and centralised administrative institutions. For most of their post-independence history, both have shared broadly authoritarian regimes alongside clientelist political settlements which included informal side-payments to politically connected elites and repression against oppositional groups.²¹ Both settlements visibly benefitted elites from the political centre and sustained uneven economic geographies, which in the periphery have been accompanied by lower formal state investment alongside histories of resistance and narratives of exclusion.²²

Alongside these similarities, the two case sites diverge in aspects that are important for the purpose of this project. While both case sites have seen re-negotiations of their national political settlements in recent years, which have included new constitutions, gestures towards more horizontally inclusive political settlements and renewed public discussions on the role of smuggling and the wider inclusion of the periphery, this has happened under fundamentally different contexts. In Tunisia, these changes were triggered by a revolution and saw a shift towards more democratic political structures alongside a temporarily decreased state presence and enforcement capacity in the borderlands. In Morocco, these changes were guided through a top-down reform agenda and were neither accompanied with a decrease in state capacity nor with the establishment of genuinely democratic political structures. In addition, as Chapter 5 will expand on, the two case sites also offer geographic variation, containing three structurally different borderlands: one urban, two rural, one closed border, two open ones. The remainder of this chapter will provide a brief introduction to the two case sites, situating them in the historical and geographical patterns of smuggling in North Africa, and highlight some of the context relevant for the comparison. The following

²¹ While the sections below alongside chapters 8 and 9 will briefly expand on the features of the political settlements in both case studies, the focus of this dissertation is on the role of smuggling economies and borderlands within these settlements. A complete and detailed mapping of all aspects of the national-level settlement alongside their changes in recent years lies beyond the scope of both this chapter and this project.

²² The structural similarities between the Moroccan North-East and the South-East of Tunisia has been the subject of some recent academic attention (Bouammali 2006; Elloumi 2009).

chapter will then provide additional detail on the cases' role in the project's research design.



*Figure 7: The two case sites within North Africa
(Source: author)*

3.4.1 Medenine, Tunisia

Medenine, one of 24 governorates of the Tunisian state, lies in its South-Eastern periphery, bordering the Mediterranean in the North, and Libya in the East. It contains a city of the same name, Medenine, the touristic island of Djerba, the mountainous Beni Khedech, and the coastal Zarzis. Crucially, 20 miles from the Libyan border lies Ben Guerdane, a town of 70 thousand inhabitants, and the central hub of informal cross-border trade in Tunisia.

Medenine's history closely reflects major themes in the history of borderlands in North Africa discussed above. Large parts of its territory form part of the Jefara, a tribal territory that spans around 10 000 km² across the modern border and into western Libya, and has been a space of nomadic movements dating back to before the colonial occupation (Laroussi 2007). While Tunisia and Tripolitania were different political entities under the Ottoman empire, the border was never clearly defined until the early 20th century, creating a zone of ambiguity and refuge for dissidents (Martin 2003, 77; Coquery-Vidrovitch 2000). This ended when the convention of Tripoli finally demarcated a border between the French protectorate of Tunisia, and the Ottoman

rulers of Libya in 1910. This caused a short-lived uprising by the Tunisian Wherghemma tribal federation (Guillaume 2006, 198) which had so far experienced limited interactions with the central state, limited primarily to the collection of taxes through military campaigns (Laroussi 2007, 62; Anderson 1987, 66).

Ironically, the city of Ben Guerdane, now a smuggling hub accused of subverting Tunisia's borders originally developed out of French colonial strategies aimed at sedenterising local tribes and controlling commercial routes (Laroussi 2007, 77). In 1895, the "Service des Affaires Indigènes" outlined a territory of 174 hectares for the construction of a market and fields and began with the construction of what today is the city centre. As the dominant local tribe, the Twazine, refused to participate, the city centre was populated by neighbouring tribes, groups from Djerba and even Malta, alongside Jewish merchants (Laroussi 2007, 78). Only slowly, Twazine began to construct houses in the periphery of the city, giving it its modern shape: a small, narrow city centre surrounded by vast suburbs of expansive family homes, usually made up of two or three houses on a small piece of land surrounded by a wall, sprawling out into the desert. Today, many of the original residents of the old city centre have left, and most of the city identifies as Twazine, while the second-largest group, the Rabai'a, makes up about ten percent of the city's population.

After Tunisia's independence, a split between its leaders Habib Bourguiba and Salah Ben Youssef over the terms of independence escalated into clashes, in which Ben Youssef found strong support in the southern regions, including in Medenine. As Bourguiba's victory became clearer, Ben Youssef hid near Ben Guerdane, before fleeing across the border into Libya. Repressions followed for Ben Youssef's supporters across the country (International Alert 2016, 9). As Bourguiba emerged as Tunisia's first president, the country maintained a populist authoritarian political structure and a political settlement embedded in a clear economic geography, with the new regime largely made up of an elite from Tunis and the northern coastal cities around Sousse and Monastir, Bourguiba's birthplace (Long and Reich 1995, 463; Salihi 2017). The political settlement throughout the tenure of Bourguiba and his successor Ben Ali remained broadly clientelist in Khan's (2010) sense: alongside redistribution through formal institutional structures, such as high levels of public employment, subsidies and some of the highest levels of social spending in the region (El-Said and Harrigan 2014, 113) existed informal side-payments to politically

connected groups vis-à-vis crony capitalism and patronage as well as targeted repression against excluded groups, such as the country's Islamic Tendency Movement (Freund, Nucifora, and Rijkers 2014; Baghdadi, Arouri, and Rijkers 2019; Willis 2012, 60).

Formal state investment remained unevenly distributed: Between 1973 and 1985, Medenine received less than 1.5% of formal state investment, despite accounting for 4% of the country's population (Abaab, Haddar, and Tarhouni 2014, 8). While many people in Medenine frame their economic marginalisation as a 'punishment' for their support of the Youssefist uprising (International Alert 2016), it is worth highlighting that the state's approach towards Medenine largely maps onto the wider development of an economic geography in Tunisia that continued to benefit the Northern coastal regions, and, as Anderson (1987) has argued, already finds its roots in the country's pre-colonial and colonial economic institutions.

While largely marginalised in terms of formal income streams, Medenine began to occupy a central role in the development of the post-1970s structure of informal cross-border trade in the region described in the section above. With Libya functioning as an entrepôt state for the informal trade of both gasoline and foreign-made consumer goods such as textiles and white electronics, informal trade in Southern Tunisia is largely focused on import. Textiles, white electronics and similar consumer goods are shipped to the port of Tripoli, loaded on fleets of smaller cars, and brought into Tunisia, where they are sold on markets throughout the country. Trade in arms and narcotics have operated as small, but high-value operations. Informal export from Tunisia to Libya consists largely of food staples and agricultural goods but generally remains on a relatively small scale. Under the Ben Ali regime, these activities appear to have been largely tolerated, alongside the selective integration of figures closely connected to the regime into lucrative positions within the trade (Meddeb 2012; Laroussi 2007; Tabib 2011).

Medenine provides a fitting setting for this dissertation's analysis, not merely because it represents typical features of the region's borderlands described above, such as the disruption of peripheral politics through border making, post-independence economic marginalisation and the development of employment-intensive smuggling economies.

More crucially, the last decade has seen the role of smuggling in the country's politics contested, challenged and negotiated, providing a unique opportunity for observation.

In 2010, a closure of the main border crossing prompted large-scale protests in Ben Guerdane, which only briefly abated before the 2011 revolution dramatically changed Tunisia's political landscape. As security forces and customs had left their position, 2011 became a boom year for Tunisia's smugglers, who moved huge amounts of goods, licit and illicit, in a relatively short time, creating enormous opportunities for accumulation. As security forces returned, and the Tunisian state began to reconstitute itself, the role of smuggling in Tunisia returned to the forefront of political discussions, alongside local negotiations between smugglers and state representatives, repeated protests and strikes. At the same time, the civil war in Libya and increasing pressure for new border fortifications have provided new challenges for smuggling networks. This re-negotiation of the role of smuggling in the context of post-2011 Tunisia and its interaction with the development of the post-revolutionary state are central to the interests of this project.

3.4.2 Oriental, Morocco

The Oriental, one of the 12 regions of the modern Moroccan state, lies in its North-Eastern periphery, bordering the Mediterranean and the Spanish enclave Melilla in the North, and Algeria in the South and East. Its two main cities are Oujda, near the Algerian border, and Nador, bordering Melilla. Like Medenine, the Oriental shares in the wider themes of the history of borderlands in the region: the disruption of economic networks through border-making, resistance, post-independence economic marginalisation and the emergence of large smuggling economies.

While largely regarded as a provincial city today, Oujda was an important commercial centre throughout much of Morocco's pre-colonial history, owing to its strategic place on the intersection of important trade routes between Fes, Tlemcen, Sidjilmassa and the Mediterranean (Katan 2000, 21). The Lalla Maghnia treaty of 1845 formally established a border between Morocco and the then French territory of Algeria, but originally had little practical relevance for the local population, as trade continued and Algerian traders, settlers and refugees continued to play a large role in Oujda's social fabric (Katan 2000, 360). State penetration of the area remained limited for most of

Morocco's pre-colonial history, and, similar to Southern Tunisia, interactions with the central state were largely structured through a system of limited and indirect rule through tribal structures (Laroussi 2008, 10; Jean Ganiagé 1957, 120). This changed when the protectorate period split the region between the North, administered by Spain, and the South, administered by France. In both regions, colonial construction of economic infrastructure was limited, and primarily geared towards extraction of natural resources, primarily iron, sedentarisation of tribes and control of regional trade routes (Berriane and Kagermeier 1996, 29). With the establishment of local borders running across traditional trade routes, a flourishing contraband trade began to develop, both between the two protectorates (Ibid. 82) and outside them (Katan 2000, 108).

As in Tunisia, the end of French colonialism in Morocco was comparatively swift, but it set the scene for new conflicts rooted in disagreements over the legitimacy of the colonial borders. As a trading centre on the border, these conflicts shaped the destiny of Oujda in particular, leaving it in a "quasi-permanent state of exception" (Daoudi 2015, 27). The "War of the Sands", a conflict between Morocco and Algeria over their respective borders, caused the border to be temporarily closed in 1963, while the two countries' disagreement over the status of the Western Sahara saw the border closed between 1975 and 1988. After Morocco accused Algeria of complicity in the Marrakesh bombing of 1994 and reinstated visa requirements for Algerians, Algeria promptly closed its land borders with Morocco. Officially, they remain closed until today.

The evolution of Morocco's national post-independence political settlement was shaped by conflicts between the monarchy and nationalist movements, particularly of the Istiqlal party, with the palace increasingly solidifying its position at the centre of the country's centralised political structures (Willis 2012, 41–44). Alongside the repression of oppositional groups, the strategic co-optation of political elites has frequently been described as a modus operandi of Morocco's regime (Waterbury 1970, 269). Consequently, the broad structures of the political settlement developed clientelistically, including informal opportunities for accumulation for political groups and business elites close to the palace alongside kinship ties and more formal distributive institutions (Willis 2012, 62; El-Said and Harrigan 2014, 108; Saadi 2019).

As in the Tunisian case, Morocco's post-independence political settlement included an uneven geographic distribution of formal rent streams, focussing on the coastal commercial centres, cementing pre-existing segmentations between rural and urban, between coastal and interior, and between the economic centres and the "Maroc inutile" (Bennafla and Badimon 2010). Economically, the second half of the 20th century in the Oriental saw the complete absence of any development strategy to overcome the region's social and spatial marginalisation (Bouammali 2006, 31). In another similarity to Tunisia, this marginalisation is commonly portrayed in Northern Morocco as a 'punishment' for their resistance against the post-independence strongman. After personally heading his father's campaign to put down uprisings in the Rif mountains in 1959, King Hassan II's dislike for the country's Northern regions was well-known - remarks referring to its people as savages and thieves are still commonly cited in the region today. Still, as in Tunisia, the economic interests of the dominant post-independence elites, the centralisation of the Moroccan state apparatus, and the legacy of colonial extraction and economic neglect likely played as large a role in the economic marginalisation of the North-East as any particular personal dislike.

As in Medenine, the Oriental's economic survival drew on its international connections. Emigration – first legal, then irregular – became a preferred strategy that was tacitly encouraged by the state. By the 1990s, an estimated 2 million Moroccans had emigrated illegally to Europe by the 1990s (Bouammali 2006, 123), with the Oriental consistently making up a large proportion of emigrants (Berriane and Kagermeier 1996; OECD 2017, 47).

At the same time, smuggling networks began to expand. As mapped out in the previous section, northern Morocco primarily functions as an importer within regional informal trade structures, driven largely by subsidies in Algeria and tariff avoidance on the border with the Spanish enclave of Melilla. From Algeria, gasoline smuggling, in particular, began to become a hallmark of the region's economy, alongside a wide range of consumer goods that were cheaper in Algeria, such as textiles, processed foods, electrical appliances, pharmaceuticals, car parts and beauty products (Hanlon and Herbert 2015). Moroccan goods smuggled in the other direction included fruits and vegetables, dried fruit, fish, some appliances, and, most importantly, cannabis. Morocco remains the largest producer of cannabis in the world, most of which is

grown in the Rif mountains and smuggled both directly towards Europe and eastwards towards Algeria (Gallien and Herbert 2019).

Alongside Algeria, informal cross-border trade between the Oriental and the Spanish enclave of Melilla expanded significantly. While the port of Melilla had mainly been used for the export of iron during the protectorate period, the city later reinvented itself as a free port, bringing in goods from the EU and East Asia at extremely low tariffs.²³ Many of those goods were then smuggled wholesale into Morocco (Houat 2004). Berriane and Kagermeier (1996) estimate that by the 1980s, this trade already involved 1/5th of households in Nador, the city bordering Melilla. Economists in Melilla estimated that by the early 2000s about half of the goods that entered the city were then smuggled into Morocco (Castro and Alonso 2014, 98), mainly through the official border crossings via extensive networks of carriers, the so-called ‘portadores’. Common goods traded on this route are textiles, beauty products, processed foods by European brands, and alcohol.

Just as Southern Tunisia, the Oriental region in Morocco not only suggests itself as a fitting case study by sharing many of the common structural features of borderlands in the region, but also as a result of a range of changes and transformations in recent years, which beg new questions and observations.

The ascendancy of King Mohamed VI in 1999 set off a process of adjustment within the economic and political strategies of the Moroccan state. After his father had not set foot there for decades, the young king made a triumphant return to the Oriental, and in a historic speech in Oujda set up a development fund to signify the end of the region’s economic marginalisation. This process accelerated once again in 2011, aiming to contain the kind of uprisings that had swept away the Ben Ali regime in Tunisia. At the same time, recent years have seen an increasing securitisation of the Algerian border by the Algerian government, directly threatening informal trade networks, leading some networks to collapse and others to restructure. In an effort to soften the resulting economic crisis in its borderlands, the Moroccan state intensified

²³ Receiving most of its budget from the Spanish state, and held largely as a strategic settlement, Melilla is not dependent on tax income and allowed to maintain extremely low tariffs in its ports. At the same time, these are commonly evaded (ML4).

its economic engagement in the borderlands, reaching out to communities it had had very little relationship with in the past.

Taken together, these events present another series of shocks to the routinized informal trade system in Northern Morocco, mimicking in some aspects the shocks in Southern Tunisia, and diverging from them in others. They precipitated a renegotiation of the relationship between informal traders and the state, and a shift in the institutional environment and the political settlement more widely, while maintaining the Moroccan central state as a significantly more dominant actor than the post-revolutionary Tunisian state. This makes the Oriental a particularly fitting counterpart to Southern Tunisia for an analysis of the relationship between informal trade and state-building.

Chapter 4: Methodology

4.1 Introduction

Researching smuggling comes with a particular set of methodological challenges. At the heart of this stands the task of making visible something that does not always desire to be visible, recording something that is frequently beyond the realm of typical bureaucratic methods of recording. At the same time, the study of illegal activities and the interaction with often vulnerable populations requires particular attention to research ethics, risk, positionality and triangulation.

The history of scholarship on cross-border trade has seen a huge methodological variety in approaching these challenges. Quantitative scholarship has typically focused on macro dynamics, measuring the scope and composition of smuggled goods. Methodologies here have varied from observing and inspecting cars on crossing points (Ayadi et al. 2013), analysing satellite images (Bensassi et al. 2015), to estimating the volume of smuggling streams through indicators of the consumption of smuggled goods (KPMG 2017). Multi-indicator models (Farzanegan 2007) have used wider ranges of variables, including black market premiums, consumption and price indices to construct estimates of informal cross-border trade. With many of these methods, there is a trade-off between the breadth and depth of insight produced and a focus on estimating the size of smuggling flows. While Schneider and Enste's (2000) seminal paper aims to estimate the 'size, causes and consequences' of shadow economies in 76 different countries, their approach provides little detail on sub-national processes.

Qualitative and mixed methods scholarship on smuggling has both focused on mapping macro structures and sought to unpack more micro dynamics in borderlands. Here, too, methodologies have been diverse and frequently encompasses multiple approaches, including extensive ethnographic work in and on borderland communities (Soto Bermant 2015b; Raeymaekers 2014), detailed studies of markets and social networks (O. J. Walther 2014; Meagher 1990; Laroussi 2007), archival work (Andreas 2014; M. H. Ellis 2018; Nugent 2002), court documents and legal scholarship (Sanchez 2014). As Ellis and MacGaffey (1996) have highlighted, what unites

different methodological approaches towards the study of smuggling is that the challenges involved in data collection and triangulation often make research on these issues particularly consuming of time and resources, and consequentially limit the scope of each study. In this context, matching a methodological approach and its limitations with a project's question and theoretical framework is of particular importance.

This study's methodological approach has been shaped by its interest in the position of smuggling in the region's political settlements. Having rejected the methodological individualism of New Institutional Economics or scholarship on Neo-Patrimonialism, political settlement scholarship has largely focused on structural analyses of macro-level distributions of power and resources (Behuria, Buur, and Gray 2017, 518). Consequentially, its natural methodological focus has been country-level political economy analyses, accompanied by small-n country-level comparative approaches (M. Khan 2009; Whitfield et al. 2015). Here, studies have traced settlements through historical or contemporary analyses of how rents or political posts are distributed between different groups, often delineating along ethnic, regional or religious lines (Behuria, Buur, and Gray 2017, 516).

As Goodhand and Meehan have noted, methodological nationalism in political settlement scholarship has led to a scarcity of work on sub-national and trans-national politics within political settlement analysis, explicitly limiting its ability to account for the role of borderlands in its political analyses (2018, 15). This similarly applies to the scarcity of scholarship on marginalised communities and as well as power held outside the formal political system, which Behuria et al. (2017, 515-516) have noted, alongside calls for more fine-grained ethnographic work within the field (Ibid., 525).

This project's interest in the informal aspect of political settlements requires an empirical focus on informal institutions, their associated rent streams, negotiation, and effects on different communities. Work on informal institutions, including in a borderland context, has been dominated by in-depth ethnographic work (Assaad 1993b; Meagher 2010; Cleaver 2002; Titeca and Herdt 2010), which appears uniquely suited to tracing and understanding patterns of behaviour and regulation that are unwritten, embedded in everyday practice or hidden requires an in-depth

understanding of local contexts.²⁴ This has included both single case studies, and, given the transnational character of cross-border trade, increasingly multi-site ethnographies (D. J. Scheele 2012; Schomerus and Titeca 2012).

This dissertation draws on both comparative and ethnographic methods.²⁵ It builds on elements of a political ethnography in order to provide in-depth analyses of the informal institutions that regulate smuggling in North Africa, their relationship to local moral perceptions, and their effects on border communities. In order to generate insights into wider structural dynamics, the dissertation provides comparisons both between two field sites, where it traces the changes and re-negotiations of smuggling economies in recent years and between two different smuggling networks in each field site.

The remainder of this chapter consists of two sections. The first lays out the theoretical grounding of the project's comparative and ethnographic approach. The second section discusses the project's data collection, noting relevant challenges with respect to access, positionality, ethics, and risk, and how these have influenced the project.

4.2 Political Ethnography, Comparison and Change

4.2.1 Political Ethnography

A number of political science scholars have in recent years advocated for the renewed and extended use of ethnographic methods within the discipline (Wedeen 2010; Schatz 2009; Simmons and Smith 2017). While ethnographic work has historically been a foundational part of the study of politics from Tocqueville's 1835 'Democracy in America' to the work of James Scott, political science and anthropology have increasingly diverted, whereas "ethnographic work, to the extent that it existed in political science, tended to be trimmed down to fieldwork interviews and/or subordinated to game theoretic models" (Wedeen 1999). A central point in this critique has been an edited volume on 'political ethnography' in 2009 which highlights the

²⁴ Additionally, Helmke and Levitsky (2004) provide a prominent example of relatively rare comparative scholarship on informal institutions.

²⁵ Additionally, there has been some quantitative work on the issue in the Maghreb in recent years that I have been able to draw on (Bensassi et al. 2015; Ayadi et al. 2013; Trabelssi 2014; Houat 2004; Castro and Alonso 2014).

utility of ethnographic work particularly in the context of micro-politics, in testing and fleshing out generalisations produced by other methods, provide epistemic innovation and expand the boundaries of what is commonly considered ‘political’ (Schatz 2009, 11). While there is significant disagreement across disciplines on the definition of an ethnography is, the volume points to two general features: participant observation and an ethnographic ‘sensibility’ “an approach that cares—with the possible emotional engagement that implies—to glean the meanings that the people under study attribute to their social and political reality” (Ibid., 5)

Although a large section of the project’s data is still comprised of interviews, this project has sought to follow Laitin’s (2003, 175) notion of a methodological “productive complementarity” by both approaching its interviews with an ethnographic ‘sensibility’ or ‘attitude’ (Flick 2014, Roelofs 2018), and seeking contextualise and understand them alongside extensive participant observation conducted during fieldwork in the two case sites.

Wedeen (1999) has argued that ethnography can be uniquely useful to fill in the gaps between official demonstrations of obedience and ordinary experiences of unbelief and resistance. In its examination of informal institutions and smuggling, this study in a sense attempts the reverse, by using ethnographic approaches in order to trace structures of regulation in the seemingly disobedient. As Schatz (2009, 305) has noted, political ethnographies are, in a sense, partial ethnographies that focus on the exercise of power. They represent “a distancing from the attempts to represent *holistically* a culture, society, group, or locale that earlier generations of ethnographers offered” (305) while highlighting contextual factors, mapping “the part (politics) in relation to the whole (the socio-political context, both in its temporal and locational sense)” (306).

If a political ethnography is partial in its focus, ethnographic work on cross-border trade similarly faces challenges in their geographic limits. This project follows a range of studies on cross-border trade by drawing on multi-sited fieldwork (Falzon 2016). As Scheele has highlighted, fieldwork on cross-border trade in wide spaces imposes further linguistic and logistic challenges on the researcher and hence limits on the ethnography as a whole (2012, 19). Here, too, the claim of a political ethnography of cross-border trade in North Africa hence cannot be to be a complete analysis of its

varying social and cultural contexts, but primarily of the way in which these contexts connect to the politics of smuggling. Crucially, however, this provides opportunities for comparison.

4.2.2 Paired Comparisons and Observing Change

In addition to using ethnographic approaches in order to trace and highlight informal regulatory structures around smuggling, this dissertation relies on comparative approaches and process tracing in order to connect them to questions around state-building and changing power relationships.

While having been a central part of qualitative research ranging back to the work of John Stuart Mill (1843), there has been little theoretical work on paired comparisons until recently, as it was commonly assimilated to single-case studies or regarded as a degenerate form of multi-case analysis (Tarrow 2010). More recent work advocates the combination of paired comparisons with process tracing (George and Bennett 2005; Bennett 2008). As argued by Tarrow, and demonstrated by Putnam et al. (1993) as well as Linz and Valenzuela (1994), paired comparisons can be particularly useful in institutional analysis (Tarrow 2010, 245). Furthermore, it provides a fitting intermediary step in theory building, between a single case study, and multi-case analysis that tests the hypotheses created by the theory. It hence appears to be an appropriate next step for the development of a theory of the political economy of informal trade.

Paired comparisons face a range of methodological challenges. Degrees of freedom are typically low, and atypical case selection has commonly weakened analytic insights. Following Gisselquist (2014) and Moller and Skaaning (2015), this project seeks to tackle these issues through careful case selection, and by combining multiple levels of comparison. Here, different chapters and arguments draw on both cross-case comparisons, and in-case comparisons, in order to highlight central structural dynamics in the political economy of smuggling in North Africa.

The first level of paired comparisons, “in-case”, examines two informal trade networks, operating in the same location. A wide variety of factors – political systems, geography, local social, and economic structures – can be held constant, while key variables of interest, such as the structure of the networks and their role in the local

enforcement environment, can be examined. The in-case comparisons, therefore, follow a most-similar systems logic (Gerring 2007; Seawright and Gerring 2008). This dissertation draws on in-case comparisons both in highlighting how informal institutions heterogeneously regulate different smuggling networks and how different networks have adjusted to and been able to influence wider changes in their regulatory environment.

The second level of paired comparison compares across cases. This allows the tracing of how the different structural conditions in the two case sites – more specifically, variations in state capacity and institutional history – have shaped the re-negotiation of the role of smuggling in the political settlements of the region. In addition, as the project conducts a similar in-case comparison in both case sites, thereby adding a second set of paired comparisons, with two networks trading in the same goods, but in a different country, it can trace how case-specific conditions have affected the in-case comparison, pointing to similarities of networks’ experiences across different contexts and shared underlying dynamics. Figure 8 illustrates this design.

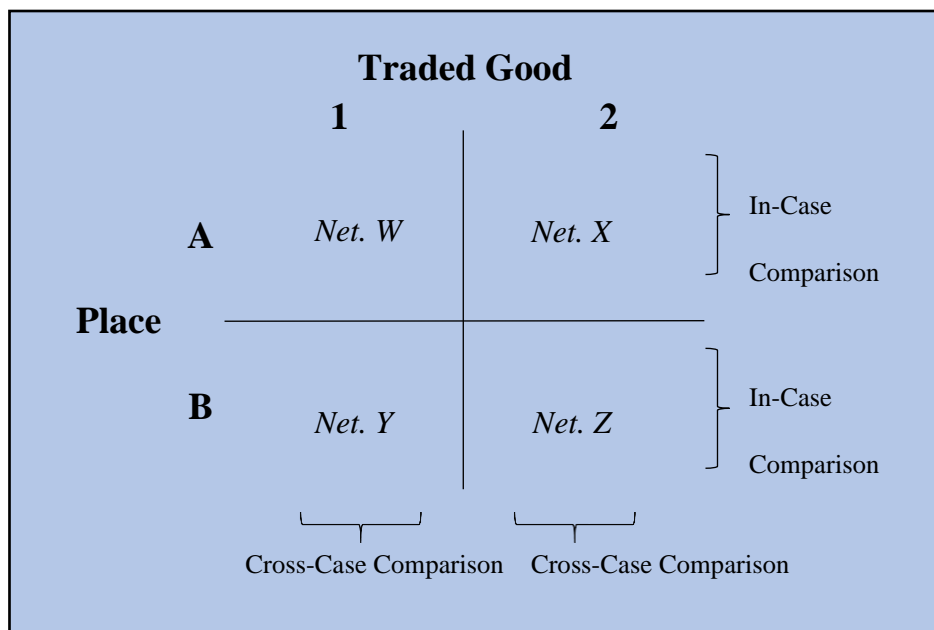


Figure 8: Schematic illustration of two paired comparisons with ‘Case’ referring to location, and ‘Net’ referring to informal trade networks (Source: author)

Especially in the context of these dynamics, it is important to note that a central comparison here is also between processes – the project traces the re-negotiation of the role of smuggling in the political settlements of the two case sites in order to

understand both its role and how it is created and maintained through the relationship between different actors. In addition, this dissertation also draws disruptions and changes in political settlements and observes their effects. In order to think through causal directions between the variables and to explain dynamics of change in the institutional environment, constructing an account of the changing local institutional environment is an important feature of this project, approximating what Tarrow called “dual process tracing” within a paired comparison (Tarrow 2010). Here, this project has been informed by recent work on process tracing that has sought to systematise both the way that process tracing aids the triangulation of information and its application to comparative hypotheses (Bennett 2008; Fairfield and Charman 2017).

4.2.3 Case Selection

Case selection for this project then needs to consider both two geographical case sites and two products and the informal trade networks associated with them. The necessary data in order to conduct this selection had been collected through three months of preliminary fieldwork in 2014, as well as the study of the pre-existing literature, media coverage and policy reports.

The two networks that I have chosen are gasoline and fabrics. They are two of the most widely traded licit goods, having had a strong influence on shaping the macro-structures of trade in the region, having perhaps the most significant effects on borderland employment, and being present in a range of borderlands, thereby increasing the wider applicability of the findings. At the same time, the goods form part of a different macro-structure within the region, as discussed in the previous chapter, and require different connections and skills from their traders, giving rise to points of differentiation between the networks that provide opportunities for comparison. I have focussed on fabrics in order to narrow down the “non-gasoline licit goods produced outside the region” category to one of its most common items, but will at times draw on other items from the category in order to demonstrate that it remains representative for a wider set of goods. This sets two conditions for the selection of the two case sites: active networks trading in both gasoline and fabrics must be present. In order to improve the comparison, they should furthermore occupy a similar position within the regional macro-structure in the trade of the relevant goods.

As the previous chapter has already outlined, the two case sites that I have selected are the Medenine region in Tunisia and the Oriental region in Morocco. As required, smuggling networks that import subsidised gasoline from neighbouring countries and smuggling networks that import textiles while avoiding tariffs are present in both regions. As the previous chapter has discussed, the two cases share a range of contextual and historical factors which echo wider themes in the history of North Africa’s borderlands. In addition, both have seen a re-calibration of a primarily clientelist political settlement in recent years, which in both cases has included a renegotiation of the role of smuggling. Crucially, these have occurred under somewhat different structural conditions – following a revolution and a dip in state capacity in one case and following top-down reforms with continually strong state capacity in the other. Chapters 8-10 will draw on these differences in particular.

In addition, the two case sites offer three rather diverse borderlands. The border between Tunisia and Libya is both formally open and largely rural. The border between Morocco and Algeria is also largely rural, but has been formally closed since 1994. The second border in the Oriental region, the border between Morocco and the Spanish enclave of Melilla is open, but located in an urban environment. Chapter 5 draws on these differences.

Figure 9 summarises the main comparative set-up of the study.

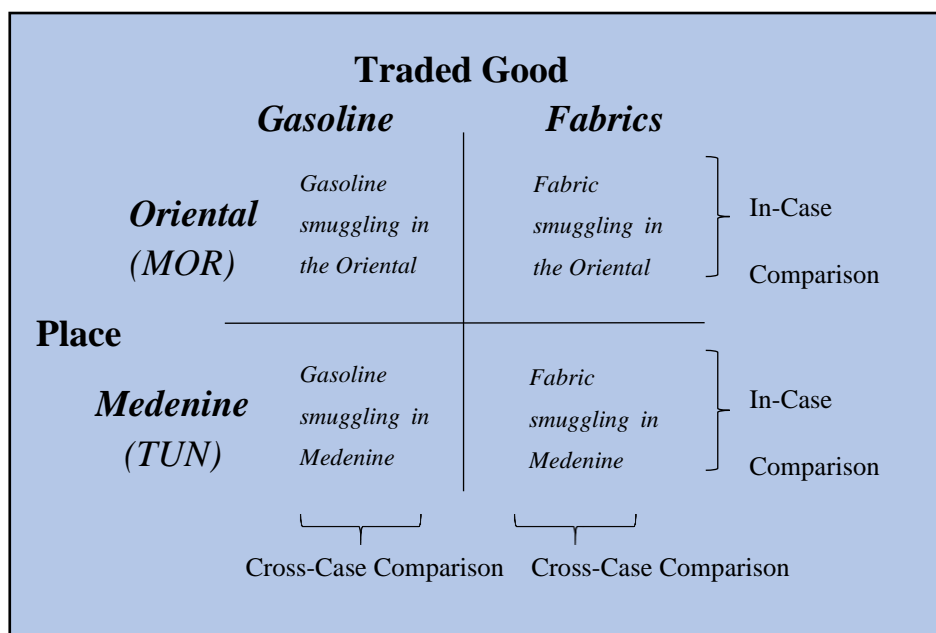


Figure 9: Schematic illustration of the doubled paired comparison of this project (Source: author)

4.3 Data Collection and Challenges

The data for this project was collected during 11 months of consecutive fieldwork in Tunisia and Morocco in 2016 and 2017 and builds on 3 consecutive months of fieldwork in Tunisia conducted in 2014 as part of an MPhil research project on the same topic. The majority of the data for this project was obtained through over 230 semi-structured interviews with members of smuggling networks, local bureaucrats, civil society leaders, politicians, journalists, academics, and formal sector actors. I also conducted a small number of focus group discussions, primarily of informal traders, alongside one group of unemployed university graduates and local civil society activists engaged in formalisation projects. A full list of the interviews conducted for this project can be found in Appendix 1, they are cited throughout this dissertation by their interview code, as listed in the appendix.

The data collected through interviews has been complemented by extensive participant observation throughout the fieldwork period, which included observing informal markets, roadside vendors, border crossings, local administrations, public discussions and festivities. The following sections outline some of the central features, challenges and limitations of the data collection.

4.3.1 Access

Gaining access presents the first methodological challenge of research in informal cross-border trade. The time-consuming process of building trust with traders limits the number of people researchers can speak to, and all access comes with its own biases, as the willingness of traders to engage with researchers correlates with a variety of important variables, such as the type of goods they trade in or their social class.

Of the people that I spoke to for this project, politicians, civil society leaders and street-level bureaucrats presented few challenges in terms of access, as they were generally identifiable and approachable, and I was able to engage with people in a range of positions and political backgrounds.

Geographic access was also manageable – with the exception of brief interruptions due to periods of violence and in one case the temporary revocation of my permission to be present there by the local security forces, I was able to move freely in Ben

Guerdane, Medenine and surroundings for the entire duration of the data collection period for this project. The same was true for Oujda and Nador. While my access to the village of Beni Drar near Oujda was limited due to the preferences of the local administration, I was still able to conduct a small number of interviews there.

Members of gasoline and textile networks, who stand at the centre of this study's paired comparison, were largely generous with their time and their willingness to talk. Despite their illegality, their businesses were normalised in the local community and, as chapter 4 discusses, tolerated by law enforcement to such a degree that talking to me constituted no major risk for them. While the traders most active in the negotiation with state institutions were specifically selected for interviews because of their position, there was also an element of snowball sampling in the selection of some of the interview partners, which has been commonly associated with serious selection biases (Biernacki and Waldorf 1981). This has been mitigated however by the large number of different 'snowballs' accrued over a long fieldwork period, as well as a concerted effort to speak to members representing different socio-economic groups. At no point during this project was money or any material benefit offered in order to gain access or interviews.²⁶

In order to gain a wider understanding of the different local smuggling networks and the rules by which they operated, I also interviewed members from a diverse range of licit and illicit networks in both locations, covering a wide variety of activities, including amongst others the smuggling of foodstuff, car parts, drugs, cigarettes, kitchenware, shoes, electronics, and human trafficking. As some of these networks are less normalised and identifiable than gasoline and fabrics, some of the access challenges identified above were exacerbated but could be mitigated over time through building relationships and approaching different members of these networks. Interestingly, even drug smugglers were not the most difficult people to gain access to for this project – obtaining formal interviews with military personnel was impossible, while interviews with members of the police remained informal. While this limits the project's insights into the dynamics within the armed forces in both countries, a

²⁶ In three cases, I did pay money to people I had interviewed. However, this was not in connection with gaining access, but as a donation in the face of the interviewee's abject poverty. In all three cases, this was done at the end of our interaction, in one case weeks later, and had at no point been promised, anticipated, or suggested beforehand.

significant amount of information about their role can still be obtained through participant observation, informal interviews, and the accounts of those interacting with them.

As Figure 10 below suggests, while there is a relatively even split in the interviews conducted between the two case sites, there is a huge gender discrepancy across both case studies, and only a few of the women interviewed are involved in smuggling networks. This is primarily a consequence of the fact that and smuggling networks in both case sites are predominantly male. The 33 interviews conducted with women were the result of a concerted effort to include female voices. This brought particular challenges, given women’s packed schedules in the face of the double burden of professional work and housework, and the conservative social structures in both field sites. Overcoming these difficulties typically involved interviewing women in their home or near their place of work, being mindful of their schedule, as well as the help of a female research assistant.



Figure 10: Distribution of interviews conducted for this project by location, gender (Unassigned and not applicable include focus groups) (Source: author)

The methodology used here, focussing on a broad set of members of two crucial networks, alongside purposefully selected representatives of a wide set of other networks and politicians, civil society leaders and street-level bureaucrats allows this study to provide detailed descriptions of the structures and dynamics of networks as well as their interaction with state structures, but prohibit it from making statistical

estimations, such as for example the precise percentage of women amongst the fabric transporters in Morocco.

4.3.2 Interviews

As previous scholarship on cross-border trade has noted, interviewing smugglers, in particular, comes with unique challenges (S. Ellis and MacGaffey 1996; Sanchez 2014). Processes of building trust and establishing rapport which are central to gaining access do not end when interviews start, bringing in additional considerations and limitations.

Given the sensitive content of the conversations, most interviews were conducted under the condition of anonymity. While recording interviews electronically was not feasible in the context, almost everyone was comfortable with me taking written notes on a small notepad, which further reaffirmed my positioning as a student. This allowed me to obtain detailed notes, which I later typed and thematically coded for analysis. While I was able to note down verbatim quotes, their length tends to be limited to two or three sentences.

I conducted most interviews held in French, English or German alone, while research assistants and friends acted as translators in interviews conducted in local Arabic dialects. While I did engage in intensive Arabic language training as a part of this project, and have been learning Arabic for years, the substantial differences between different dialects did not leave me confident to conduct interviews in Arabic by myself. Still, Arabic did help build rapport in interviews and everyday encounters, while the ability to conduct interviews in French, particularly with bureaucrats, helped to frame interviews in the language of technocracy and development, in which bureaucrats felt more comfortable speaking about the local smuggling economy.

The structure and content of interviews differed hugely dependent on the participant, though interviews with informal cross-border traders commonly included a life history element (Rubin and Rubin 2005), which has been found to be particularly productive in studying cross-border trade (S. Ellis and MacGaffey 1996), followed by thematic questions on the trade. Recent scholarship has highlighted the interactional nature of interviews as a form of data collection, noting that interview content cannot be taken as a “snapshot” of what is going on in a person’s head (Atkinson and Silverman 1997,

322), but is instead created through the encounter of the interviewed with the researchers, with the researchers' positionality deeply affecting the content of the interview (Baker, Edwards, and Doidge 2012).

In many cases, the interviews were the first sustained interaction I had with the people I was interviewing. Apart from the introductions, and the features of my position that interviewees picked up on immediately – my ethnicity (white), gender (male), age (young) and nationality (foreign) – the interviews hence were also a process through which my respondents were trying to gather information about me. While I provided an introduction to my work at the beginning of a meeting, this was not always sufficient to dispel preconceptions of what I might 'really' be doing, the most common assumptions being that I intended to collect information on behalf of my government, its secret service or military, that I was a journalist, or interested in buying or selling drugs or arms. These assumptions were not only potentially damaging to the content of the interview, but also to my security. I was particularly careful to not ask any questions, at least in the early parts of interviews, which might shed doubt on my identity as a “student interested in the economic structures and regulatory environments of borderlands”, and usually started interviews with the more economics-centred questions. I made sure not to disclose advanced knowledge of illicit trade networks and adopted a more naïve persona when the issue came up. I almost never asked overtly political questions to non-politicians, although respondents typically brought up politics unprompted.

Still, there were more meaningful ways in which this has limited the questions I was able to ask. My knowledge of illicit trade networks is built on a more limited sample of interviews than my knowledge of licit trade networks, as I had to reduce these discussions to the interviews in which either my opposite would bring them up, or I would feel comfortable enough to ask. I also was unable to construct any quantitative social network analyses of the different connections between traders, as systematic questions about the specific names of their suppliers or interlocutors would have been viewed as highly suspicious.

My positionality also had effects on the answers I received. My position as a foreigner commonly led people to feel like they should behave as an ambassador, and present their environment in the best light. Fortunately, this tended to decrease over the

duration of the interview. In interviews with people of relatively low social status, despite my assurances to the contrary, answers would occasionally be characterised by a belief that I would be able to organise help. Still, this remained less prevalent than I had originally anticipated, likely because my characterisation as a ‘student’ and the lifestyle and demeanour that I adopted was clearly separate from foreign NGO workers or foreigners in a position of power.

Naturally, the fact that the subject matter discussed included sensitive subjects and illegal activities significantly affected interviews. As has been noted by Sanchez (2014, 13), if smuggling activities are normalised and socially accepted locally, conversations become easier, particularly if embedded in local discourse. I was able to learn to phrase questions in this context, typically referring to “trade” and “business” rather than smuggling. Learning from research assistants and experience to phrase questions in a non-judgemental manner, and breach sensitive subjects appropriately was an important learning process. All of this was facilitated by the fact that many of my questions were about institutions, about rules and structures of interaction that were shared by many. As a result, I was able to ask questions that could imply less personal responsibility, asking more about “how are things done” before asking “how are you specifically doing things”.

Nevertheless, incentives towards misreporting need to be considered in the evaluation of the interview data. The first step has been for me to treat each interview first and foremost as what it was – a conversation that is affected by positionalities, interests, and discourses, rather than statements of objective fact. I have then tried to piece these together through careful triangulation, using some of the logics of Bayesian process tracing described by Fairfield and Charman (2015), considering people’s incentives and positionalities. A large number of interviews, alongside a collection of documents, some secondary literature, and most crucially the experience gained through participant observation, has allowed me to triangulate information in order to generate robust data on informal institutions around smuggling in North Africa. To give an example, the change of the procedure at Tunisia’s Ras Jedir border crossing, mentioned in chapter 4, was confirmed to me by three separate sources, each of whom have intimate knowledge of the procedure, and did not know each other, not having any motive, or in this case, the ability, to coordinate a precise and elaborate lie. Additionally, I did not receive any information contradicting their stories.

There is a worrying tendency in academic and journalistic writing on smuggling to make arguments based on one single anonymous source, frequently with no discussion of its positionality or credibility. Thankfully, due to the length of the fieldwork period for this project, there are very few instances in this project where I have to rely on a single anonymous source. None of them is fundamental to the argument I am presenting, but present an interesting detail, and I have included them only where I believe them to be credible, to have detailed knowledge of the processes they are describing, and to have no incentive to misrepresent them.

4.3.3 Participant Observation

Participant observation has been an important part of the data collection for this project. Observing the distribution networks of informal cross-border trade in markets across the region, buying contraband gasoline, accompanying a Moroccan NGO on trips where they gave seminars to formalise informal workers, attending the festivities for the anniversary of the IS attack on Ben Guerdane and the demonstrations in Al-Hoceima, walking time and time again through the border crossings of Melilla, driving through checkpoints every day and having one too many run-ins with the local police, late-night discussions with friends and their families – all provided context and information beyond the rather artificial boundaries of interviews. It also helped me build contacts and provided me with the understanding of local social structures that would help me behave appropriately towards my respondents.

Again, my ability to participate was mediated through my identity. As a foreigner (and someone requiring research ethics approval), participating in smuggling myself was impossible. However, my positionality also brought advantages: even once I had spent significant time in my field sites, the going assumption was still that my understanding of local processes was nil, providing me with an ongoing commentary on my surroundings by those around me. A reputation as a researcher working on the economy also created a certain interest by local bureaucrats and businessmen to discuss the local economy, which provided valuable insight and context.

Finally, my positionality within the local community was crucially influenced and supported by three people who at one time or another worked as my research assistants, and whose local embeddedness and kind character helped us to find access

and build trusting relationships. All three of them were close to me in age, and all three of them were fluent in English, alongside French and local Arabic dialects. In Tunisia, I began working with Mohamed in 2014, when he introduced himself to me in the street. It was a fortunate encounter, as he would become a competent translator and quasi- bodyguard for years to come. His coming from a local family but not being particularly well-known proved hugely valuable, as it made Mohamed able to reassure respondents while at the same time not placing us in the context of any political or social group. In Morocco, I began working with Jaouad in 2016, after he had been recommended to me by his university professor, and Mawya in 2017, after she had been recommended to me by her German tutor. Having different genders, and different social backgrounds, one from a rural, one from an influential urban family, while both maintaining involved links into local civil society, they provided me with a rich perspective on their surroundings and allowed me to in some cases pick a translator that I felt was most suited for the context of a particular interview.

4.3.4 Ethics & Risk

I have complied with LSE ethics guidelines throughout this project.²⁷ Due to widespread illiteracy and heightened concerns about confidentiality and security, I have relied on an oral consent procedure, which I developed for my 2014 fieldwork in coordination with the research ethics committee at the University of Oxford, and adapted for the 2016 and 2017 sections of this project.

Conducting interviews with smugglers brought two sets of additional ethical challenges: one regarding my acting lawfully myself, and one regarding my responsibility towards those I was interacting with. With respect to lawfulness, my research did not require me to break any laws but put me in a position to witness illegal activities. This is a common ethical issue, particularly in criminology (Wolfgang 1981; Beckerleg and Hundt 2004; Hammersley and Traianou 2012). Given the non-violent nature of these activities, their institutionalisation, and the awareness of law enforcement agencies, siding with the responsibility to protect the confidentiality of the participants of this study was a straight-forward choice.

²⁷ Interviews conducted in 2014 were conducted under the guideline of the ethics guidelines of the University of Oxford.

With respect to my responsibility to those I was interacting with, apart from ensuring informed consent, ensuring anonymity has been particularly important. I had a conversation about anonymity before every interview, adopting an “opt-out” system where anonymity was the assumed standard. Aside from anonymising all these interviews, I have also anonymised multiple interviews in which my opposite had explicitly consented to be cited by name because they did reveal information that I believed could potentially be harmful to them and preferred to err on the side of caution. All interview transcripts and notes have been saved and transmitted in encrypted form.

Finally, the project involved some risk to my own security. The security situation, particularly in the Tunisian South, has been volatile for the past years, and Ben Guerdane once again became a ‘red’ zone on the FCO’s map a few days after I completed my fieldwork there. The nature of my research necessitated additional caution in both field sites. In cooperation with LSE Health and Safety, the security strategy for this project was based on a low profile, surveillance detection, non-regular patterns of movement, and close cooperation with local partners. While in Ben Guerdane additional measures included tracking through my phone and regular check-ins, and from 2016 onwards, all nights spent outside of the city. While, fortunately, no incidents occurred that suggested that this strategy was insufficient, this did affect my research: it limited my flexibility and the number of interviews I could do in a day. While the length of my fieldwork made this less problematic, the low visibility aspect of these security strategies ensured that these issues were not present in the immediate interview environment.

Chapter 5: Regulating Smuggling I – At the Border

“The informal economy here is like geography, it is a sedimentation, layer after layer, and it created its law, and its reality.”

Member of Parliament, Oujda, 2017 (M95)

5.1 Introduction

“Our border problem”, a recent USIP report quotes an Algerian border official as saying, “can be summarized quite simply as a problem of tomatoes and terrorists. Terrorist groups can use the same techniques and routes as smugglers of tomatoes do” (Hanlon and Herbert 2015). The quote reflects a common narrative in contemporary writing on smuggling: the invocation of a general, unregulated porosity, of “ungoverned spaces” (Miles 2018, 201) in global borderlands through which small-scale, informal traders of food or textiles move alongside drug smugglers, terrorists and other ‘global outlaws’ (Nordstrom 2007). “A culture of low-level corruption engendered by generations of smugglers makes it easy for terrorist groups to move people and supplies throughout the region”, the same report concludes (Hanlon and Herbert 2015, 6). All this is imagined as ‘under the radar’ of the state, a radar which is presented as weakened by low state enforcement capacity administrative corruption, economic crisis or conflict. As a result, policy recommendations commonly call for either an improvement in the state’s ‘radar’, as illustrated by the German and US-funded installation of surveillance equipment along Tunisia’s southern border, or a stringent limitation of the border’s porosity, as illustrated by the dramatic increase in border fortifications in the region since the early 2000s.

This chapter begins this dissertation’s analysis of the regulation of smuggling in North Africa by presenting a detailed analysis of the institutions that regulate smuggling at the point where goods cross the border. Consequently, the chapter directly challenges the idea of an unregulated, general porosity in North Africa’s borders. It demonstrates that smuggling in the region is a highly regulated activity that is structured through a variety of formal, informal and hybrid institutions not always working in accordance with the law. These institutions not only regulate porosity – only allowing the

smuggling of a limited set of goods through selected nodes along the border – but also affect the quantities of goods that can pass through a certain area, the costs of smuggling, its labour intensity, and who can participate. While these forms of regulation can be found across the region’s varying borderlands, systematic differences in regulation can be highlighted between goods and different sections of the informal value-chain. Most notably, this regulation is not located ‘under the radar’ of states but negotiated and maintained with the heavy involvement of the region’s states.

This chapter employs its analysis of the regulation of smuggling in North Africa to examine some of the dominant assumptions about informal institutions and the regulation of illegal economies. As discussed in Chapter 2, mainstream political economy typically conceptualises the regulation of informal and illicit economies as the domain of informal institutions, which are commonly characterised as personalistic, and lacking third party enforcement. This chapter questions these assumptions empirically by pointing to informal institutions that operate impersonally and involve third party enforcement. It argues for renewed attention to the roles of states in constructing and enforcing informal institutions.

This chapter is made up of five sections. The first three sections provide a detailed analysis of the institutional environment that regulates smuggling at key nodes along three different types of land borders in North Africa: an open rural border (Tunisia-Libya), an open urban border (Melilla-Morocco), and a closed rural border (Morocco-Algeria). They highlight that much of the smuggling activity in North Africa is subject to regulation through informal institutions, which determine the process and costs of smuggling, alongside the goods permitted at key nodes along its borderlands. Characterised by impersonal structures and third-party enforcement, these institutions provide an interesting challenge to common characterisations of informal institutions. The fourth section discusses trade that occurs outside of border crossings. The final section examines how these accounts of the regulation of smuggling in North Africa can advance our understanding of informal institutions and the regulation of informal and illicit economies in political economy scholarship.

As I have discussed before, the institutions that contribute to the regulation of smuggling in North Africa have not always been stable in recent years, and their

change and re-negotiation will be discussed at length in the later parts of this book. The rules, procedures and practices presented here are therefore snapshots of these institutions at particular moments in time. For the most part, this snapshot will be the most recent and the most detailed account that I am able to provide. However, with gasoline trade having collapsed by the time of writing, I present the institutions that governed it as they existed before their collapse, in 2014 (Morocco) and early 2017 (Tunisia) respectively. This is to be able to discuss the features of these institutions, before chapters 7-10 will provide more detail on their evolution, and the drivers behind their rise and change in recent years.

5.2 Tunisia – Libya: Regulation at an Open, Rural Border

The Ras Jedir border crossing lies at the Northern tip of the border between Tunisia and Libya, and 20 miles from the Tunisian town of Ben Guerdane. The vast majority of informal cross-border trade operates through the Ras Jedir border crossing, and has done so for the last three decades. A wide variety of internationally produced consumer goods are shipped to the ports of Western Libya, packed on smaller cars, and brought into Tunisia through the border crossing. At the crossing, the goods are either completely undeclared, mis-declared or under-declared, with the avoidance of the full legal import tariff making up a significant section of the profit margins of local traders. The trade is highly routinized and can be observed in broad daylight. Hundreds of young men from Ben Guerdane earn their livings as drivers carrying smuggled goods between Western Libya and Southern Tunisia. As this usually occurs alongside a payment to the customs agents at the border, media reporting on the border crossing typically connects the procedure to the issue of corruption, and frames Ben Guerdane as a “lawless, Wild-West-like town” (Prentis 2018).

However, upon closer examination, fundamental regularities appear in the procedures at Ras Jedir. For decades, informal trade at the border crossing has been regulated through an informal agreement between local traders, customs officers, and the Tunisian and Libyan state apparatus. This agreement regulates the types of goods that may pass informally through the crossing, their quantity, the means of transport, and the cost of this informal trade – meaning both the practice of under-reporting and the side payments made to border agents. This agreement has not stayed fixed – many of

its terms have varied over recent years, based on a set of negotiations that will be discussed in later chapters. However, its claim over the regulation of these features of the trade, has, with the exception of a few months after the 2011 revolution, remained constant.

In order to illustrate, this is the agreement as it existed in April of 2017:

- Traders who were transporting goods with a value of less than 2000 Libyan Dinar (GBP 1097)²⁸ plus 150 litres of Libyan gasoline were not required to pay anything at the border crossing, neither the official tariff nor any standardised bribe or other informal fee.²⁹
- Traders who were transporting goods with a value of over 2000 Libyan Dinar (GBP 1097) would pay 1500 Libyan Dinar (GBP 822) to an intermediary on the Libyan side, while 300 Tunisian Dinar (GBP 76) would be paid to the Tunisian customs officials.³⁰
- While the money on the Libyan side would be divided between multiple groups that exercised some claims over the border crossing, including the nearby Libyan municipality of Zuwara, the money on the Tunisian side would partly go towards the tariff income of the state, while some would go directly to the private income of the customs agents.
- Weapons and narcotics were excluded from the deal, and not allowed to be imported through the border crossing. Medicine is only allowed to be imported informally if paperwork by a doctor can be provided. All goods that were brought through had to pass through a scanner at the border crossing to ensure that they are in accordance with this rule.³¹

²⁸ Conversions to British Pound Sterling (GBP) is based on 2019 official exchange rates, and throughout this book has been included for the convenience of the reader only. It is not meant to indicate the availability of GBP locally at this rate and at the time at which the respective institution was in force. It is also important to highlight that there are significant differences between the black-market rate and the official exchange rate for the Libyan Dinar.

²⁹ As mentioned earlier, 'irregular' bribes occasionally occurred, for example if customs agents purposefully caused a traffic jam and then charged cars a fee to bypass it.

³⁰ While this might appear like very high, it's worth noting that many traders import goods with values significantly beyond 2000 Libyan Dinar.

³¹ Triangulated through multiple interviews with different traders as well as informants involved in negotiating this agreement

The procedures and payments outlined in this agreement are – as is generally readily admitted by all actors involved – entirely in contradiction with Tunisia’s laws on customs and tariffs.³² Formally, the trade conducted here is illegal. Tunisia’s tariff system does not mirror the ‘minimum threshold’ included in the agreement³³, it specifies different tariff rates for different goods, it employs tariffs as percentages of the good’s value, not a lump sum as in the agreement here, and naturally does not contain a split of the tariff incomes between state accounts and the personal income of customs agents.

It is also worth noting that this agreement as outlined here represented one of the more ‘deregulated’ versions of this institution. Its immediate predecessor, in effect from January until April 2017, had set an upper limit per car of goods with the total value of 4000 Libyan Dinar (GBP 2187) plus 150 litres of gasoline³⁴, and a later iteration again introduced a maximum limit of 5000 Libyan Dinar (GBP 2733).³⁵ While this agreement only prohibited the informal import of illicit products alongside medicine, agreements that had been in place before 2011 placed additional restrictions on the types of goods that could be brought through the crossing without paying the formal tariffs, mainly to protect goods that politically connected businessmen in Tunis had an interest in protecting from competition through informal trade. This included, amongst others, almonds, pistachios, very high-value electronics, and bananas (T68), which famously had been a crucial part of the business empire of the recently arrested Chafiq Jerraya (Ghorbal 2017).

Earlier agreements, including between 2012 and 2016, had also included specific restrictions as to the type of cars that could be used for informal trade through the border crossing. As local traders pointed out, this boiled down to a prohibition against the use of large transport vehicles, as the use of smaller cars combined with the traffic jams at the border crossings that would commonly surpass 4 or 5 hours, made the trade

³² Given this section’s focus on Tunisia, and the complexity of Libya’s competing legal structures in 2014, I focus on Tunisia here.

³³ There are legal exemptions for the import and export of some goods, but these are usually specified for personal consumption and set a lower threshold, such as 200 cigarettes or 250ml of perfume.

³⁴ Memorandum of Understanding, signed in Zuwara on the first Sunday of January 2017. Full text in Appendix 2.

³⁵ This was confirmed to me by one of its negotiators (T102). (Throughout this dissertation, interviews are cited by a code assigned to each interview. The full list of interviews can be found in Appendix 1).

substantially more labour intensive. Negotiators for the agreement that I spoke to highlighted that this had been negotiated in the knowledge that it would both help to employ young men from the region and make the practice less accessible for traders based in Tunis (T40, T96). In addition, smaller cars were easier to search, facilitating the enforcement on the ban of smuggling weapons through the border crossing.

This agreement, as described above, is unwritten, but knowledge of it and its details is widespread among traders in the area. A wide variety of traders in different locations and networks were able to recite its precise details to me. However, an earlier version of this agreement was even written down – against the expectation of common characterisations of informal institutions as inherently unwritten (North 1990; M. Khan 2010), as will be discussed in more detail below. Between January and April 2017, a written text existed, a “Memorandum of Understanding”, that had been produced by an earlier round of negotiations between local actors around the status of the border crossing. A photocopy, as well as a full translation of the agreement, can be found in Appendix 2.

Apart from listing the goods and quantities that are allowed to be brought through the border crossing informally, and at which cost, the agreement included sections that justify its purpose, affirming “the spirit of cooperation and brotherhood between the Libyan and Tunisian peoples”³⁶, and “foster cooperation through it, without proceeding to hurt the national sovereignty of both countries”³⁷. It also contains a list of demands towards both the Tunisian and Libyan governments, reflecting common frustrations of the traders, such as long lines at the border crossing, the absence of a special passageway for humanitarian emergencies³⁸ and families, and even increased security cooperation between the two governments.

The agreement states that it was signed in the Libyan city of Zawya, and includes the signatures of members of the Libyan High Council of Reconciliation and the Committee of Comprehensive Agreement³⁹, alongside two Tunisian signatures:

³⁶ Memorandum of Understanding, signed in Zuwara on the first Sunday of January 2017. Full text in Appendix 2.

³⁷ Ibid.

³⁸ Many Libyans, both civilians and soldiers, travel to Tunisia for medical services, commonly crossing through the Ras Jedir crossing. Many health centres in Southern Tunisia, especially Djerba and Sfax, routinely cater to Libyan medical tourists.

³⁹ My translations, the original Arabic specifications of these groups can be found in Appendix 2.

Ahmed Lamaari, a Tunisian member of parliament for the Medenine region, and a member of the Ennahda party, and Adel Ben Belqassem Neji, a civil society activist and informal trader from Ben Guerdane. The agreement also lists as ‘present’ a variety of other actors, including multiple military officers from a variety of armed groups in Western Libya, ranging from the ‘Situation Room of the Western Military Region’ to the ‘Brigade of the Martyr Jamal Gha’eb’⁴⁰, an armed group originally founded in 2011, that has since made repeated claims to playing a role in the operation and securitisation of the border crossing. It is likely that the large number of actors involved, and conflicts and mistrust between some of the actors on the Libyan side necessitated a written form for the agreement, although this practice was disbanded briefly thereafter, and the agreement returned to being unwritten by April 2017. It is also worth noting that the member of parliament, is listed in the agreement merely as the “President of the Tunisian Delegation” not as a member of parliament, or a party that is currently in government.

Even the most formalised version of this agreement remained at its essence in clear contradiction to both Tunisian law, as it referred to import tariffs and procedures, and Tunisian state practice, as it referred to who could negotiate agreements with foreign actors. In my interviews with them, the negotiators of the “memorandum of understanding” emphasised that this is “not an official accord” (T57), that it is “not legal” (T96), and that while their negotiation of the agreement had been explicitly allowed by both the Prime Minister and the Minister of Interior, it has not been signed formally by a member of government. The agreement hence remains informal – and yet it is worth noting that its negotiation, enforcement and maintenance involves a wide variety of state actors, including regional governors, a member of parliament, police and customs officers, some, but not all of which stand to financially benefit from the agreement.

It is worth noting that while the agreement is informal, it is also impersonal. While large parts of the political economy literature on informal institutions assume that they are personalised and small-scale, being able to trade under this agreement does not depend on particular contacts, having a cousin in the customs office, or even being from Ben Guerdane. It does restrict access, but it does so impersonally, by requiring

⁴⁰ My translations, the original Arabic can be found in Appendix 2.

all traders to have a Tunisian passport, for example. Traders commonly tell stories of some of the particularly large traders that build relationships with customs officials that may allow them to bypass these rules. However, this suggests more of an exception to the rule – or its breaking – than its personalisation. I will return to this point again at the end of this section.

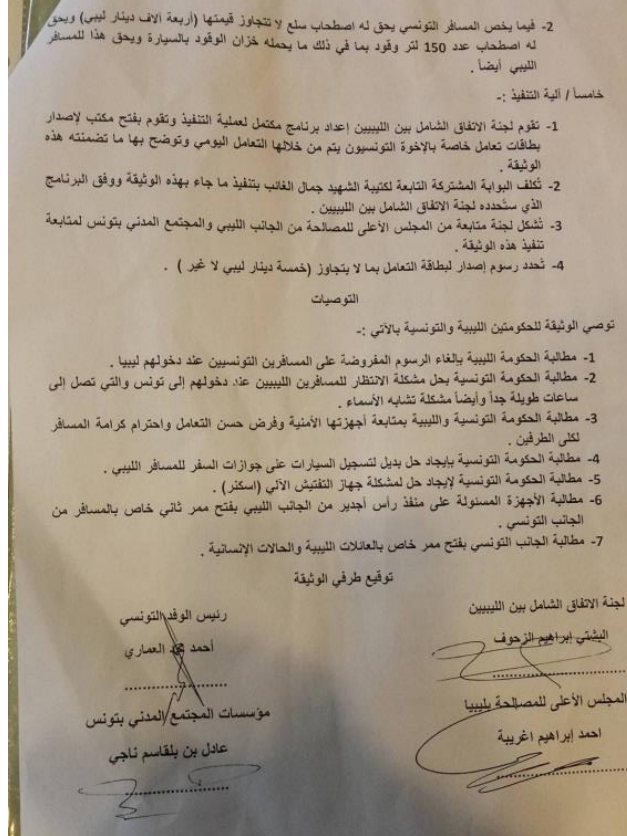


Figure 11: Final page of the Memorandum of Understanding, with signatures. (Full Document in Appendix 2)

While the regulation at the Ras Jedir border crossing has been the primary form of regulation of informal cross-border trade, it has frequently co-existed with a series of checkpoints on the road around the border crossing, both on the Tunisian and the Libyan side. These have allowed different groups to extract resources from the trade, particularly if they were not included in the rent generated at the Ras Jedir crossing itself, which became a controversial issue, particularly in Libya. The number of checkpoints has waxed and waned, but at its heights presents a serious drain on the time and resources of the traders. In February of 2017, traders recounted to me that in order to informally bring couscous to Libya, and returning with carpets, he would pass 4 checkpoints between Ben Guerdane and Ras Jedir, set up by the Tunisian National Guard, Police, Military and Customs Officers, and another 5 checkpoints between Ras

Jedir and Zelten in Libya, set up by a variety of local authorities and armed groups (T60).

Both the creation of checkpoints and the level of bribes demanded are usually less predictable for traders than the institutionalised agreements at the border crossing. Bribes range from nothing to their whole profit margins. Stories of violent abuse at checkpoints, especially in Libya, are available in abundance among traders, and have been a significant source of conflict in recent years. In this context, the different agreements for the procedure at Ras Jedir were hence also presented by traders as a simpler, more predictable and more desirable form of organisation. Especially after 2011, both the agreement at Ras Jedir and the existence of checkpoints represented not just a coordination between trader and elements of the Tunisian state around the regulation of informal trade, but also became a space of negotiation around rent extraction from the border crossing between different groups vying for influence in Western Libya. This will be discussed at more length in Chapter 7 and 8.

5.3 Melilla – Morocco: Regulation at an Open, Urban Border

Smuggling in North Africa is not limited to the rural periphery. In its institutionalisation and regulation of informal cross-border trade, the procedures around the small Spanish enclave of Melilla⁴¹ rival that of the Ras Jedir crossing. Covering less than 5 square miles of territory, Melilla borders the Mediterranean in the North, and Morocco in the South. Largely due to concerns about migration, its 6.8-mile border has been heavily securitised in recent years, including two parallel 9'10 feet fences topped with barbed wire, watch-posts and a buffer zone. As other scholars have noted (Andersson 2014; Andreas 2009, 135; Soto Bermant 2015a), Melilla's border fortifications are characteristic of a recent trend in border fortification that seeks to be porous to the free movement of goods, but demonstrate a capacity to regulate the movement of people. What is particularly noteworthy about the case of Melilla is that this significant expansion of its border infrastructure has not just left it porous for the legal trade of goods, but also for a large wholesale smuggling trade. It

⁴¹ The discussions here focus on the border between Melilla and Morocco. However, it is worth noting that the procedures described here are in many ways mirrored in the second one of the larger Spanish enclaves in Northern Morocco, Ceuta, which lies in the North-West of the country, near the Strait of Gibraltar.

has been estimated that at least half of the goods that arrive in the port of Melilla are brought into Morocco illegally, with the trade being driven (and made illegal) through its bypassing of any official trade or tariff regulations on the Moroccan side (Alonso and Castro 2014). The most common goods traded this way are textiles and foodstuff, alongside a variety of European consumer goods.

On both sides of the border, there are significant economic interests in maintaining illegal trade across this border – wholesale merchants on the Spanish side, informal trade and distribution networks on the Moroccan side both are significant drivers of the local economy. While I will discuss these dynamics in more detail in Chapter 9, this section highlights the trade's regulation. In another parallel to the Tunisia-Libya border, informal trade out of Melilla occurs primarily through the city's official border crossings. This section focusses in the two most prominent crossings at Beni Ensar and Barrio Chino. Bustling with traders and transporters carrying goods through the narrow border crossings in defiance of any customs regulation, the crossings have been described as “a space of lawlessness” (McMurray 2001, 123). However, as in the case of Tunisia's Ras Jedir crossing, upon closer observation and following conversations with local smugglers, clear rules and regulations emerge.

The Beni Ensar crossing is named after the Moroccan suburb that borders it. The crossing has three main lanes going into Morocco: one for cars, one for normal walking traffic, and one reserved for informal cross-border trade on foot. Especially since the construction at the Farrakanh crossing, it has been the main avenue for car-based informal cross-border trade between Melilla and Morocco. Late at night, Moroccan drivers can be seen lining up in a long queue of cars in the Moroccan town of Beni Ensar, to be let into Melilla early in the morning, and drive to one of the countless warehouses just on the other side of the border crossing. They fill their cars with clothes, tires, foodstuff or other imported products, and make their slow way back to Morocco, where the goods are being sold on markets in Nador or transported across the country. Most of the cars are ancient – standing in line at the border crossing most of the day does not require much horsepower.

The lines of cars on both sides of the borders are regulated so as not to interfere with local traffic. As the cars pass back into Morocco, their imports are let through unregistered and untaxed in exchange for a bribe to the Moroccan customs officers.

While the bribes are relatively standardised, they are dependent on the value of the goods, and typically range between 50 and 200Dh. Importantly, the cars are inspected by Moroccan customs officers. This not only allows some estimation of the goods value (and hence the level of the bribe), but also the enforcement of some restrictions on goods that are not allowed to be traded this way – alcohol, for example, medicine or drugs, cannot be traded in this fashion (M36). While there is no official restriction on how many cars can engage in this trade, they are limited through standardised and strictly enforced times during which the trade is allowed to occur – usually between 6am and 1pm Moroccan time, after which the trade shuts down and the traders offload their goods and get in line for the next day.

Car-based trading is only one of the two streams of informal cross-border trade through the Beni Ensar border crossing – trading on foot is even more common. At six in the morning, screams and chatter fill Beni Ensar, as traders are pushing against the small gate until it is opened and they are let into Melilla to buy their products. Although the group of waiting traders has been separated by gender (women are let through first), the scramble still presents a serious health hazard for the traders – Spanish riot police that were manning the checkpoint have shown me videos on their phones that showed traders stepping on other traders that had tripped and fallen. Once they have bought their goods, traders make their way back to Morocco through the border crossing. Two lanes are open for foot-traffic. One is open for tourists, visitors and other travellers without a car. This one can also be used by small-time traders with only very few goods, usually one bag that can be carried in one hand. For all the other traders, there is a special lane. A member of the Spanish *guarda civil* directs people into the correct lane. The specialised lane for traders usually is significantly busier, and around half a dozen members of the Spanish police are typically involved in getting traders to line up on a large open space near the border crossing, and then walk through the narrow fenced-off path, through an iron turnstile, and then past the Moroccan customs officers and into Morocco.

The Spanish police, mainly riot police brought in from mainland Spain on two-week rotations, plays a crucial role in organising the procession of traders. They try to ensure that the onslaught of traders trying to get through the small turnstile doesn't result in

injuries and at times mediate when conflicts break out (ML3).⁴² However, they are not directly involved in the central transaction of the trade: the payments made to avoid the application of Morocco's customs law is made to Moroccan customs officers, on the Moroccan side of the border. These payments can be differentiated into three categories.

The first group are independent traders with very small amounts of goods, often elderly women from the Oriental region who are selling their products to local stores. While they used to pay small bribes to Moroccan customs officials in order to pass, custom officials stopped systematically demanding bribes from them in 2010 and 2011 and have not done so ever since. There are still occasions in which bribes are demanded or goods are confiscated, but traders report that the systematic taking of bribes from very small-scale traders seems to have stopped, simultaneous with a similar development along the border between Morocco and Algeria that will be discussed below.

The second group are traders who also work independently but are carrying larger amounts of goods. They typically pay a bribe to the Moroccan customs officers, which, similar to the car traders, is very roughly proportional to the quantity and value of their goods, and usually ranges between 50 and 100Dh.

The third group are traders who work for a wholesaler. While many of the traders working in Beni Ensar work independently, there are also a significant number of traders who are employed by a wholesaler, picking up their goods either at nearby warehouses, or directly near the border crossing. Alongside their goods, they are usually supplied with a 'ticket', which carries their name, the name of their boss, and the goods that they are transporting. As they pass the Moroccan customs officers, they use the ticket to identify themselves as employees of a particular wholesaler. They would hence not have to pay a bribe, as the bribe to the customs officers would be part of a larger, regular arrangement between the wholesaler and the customs officials. The traders would then deliver their goods to a transporter working for the same boss on

⁴² It is worth noting that this frequently involves violent altercations among traders, and between traders and the police. As hundreds of transporters shuffle for access to small spaces, recent years have not only seen serious injuries and fatalities. "The Moroccans are making it easy, the Spanish authorities though, they are rude, they treat us badly, they hit us" traders commonly complain, usually indicating that this is a more serious issue at Barrio Chino than in Beni Ensar (M41, M42).

the other side of the border, with their ticket again identifying them as employees of a certain wholesaler, and specifying the goods that they have to deliver, as well as the payment that they are entitled to receiving (M55, M56).

As in the case of Tunisia, as well as the car-based trade through Beni Ensar, these procedures are not open to all types of goods. Medicine and alcohol, for example, even little sanitary wipes that contain alcohol, are not let through (M41, M42). After Morocco imposed restrictions on the use of plastic bags in convenience stores for environmental reasons, traders reported that these bags could also not be brought through the border crossing anymore (M41, M42). Some features of these procedures also limit the quantity coming through – as with the car-based trade, there are strict temporal restrictions on informal cross-border trade by foot, typically between 6am and 1pm Moroccan time.



Figure 12: Cars waiting at the Moroccan side of the Beni Ensar Crossing (Photo: author)



*Figure 13: Traders lining up at the Spanish side of the Beni Ensar Crossing
(Photo: author)*

The procedures at the Beni Ensar crossing are largely replicated at the Barrio Chino crossing.

Located in the South-West of the city, this crossing is used almost exclusively by large-scale informal cross-border traders and their transporters. The routinisation of the process that can be observed here is even more striking than in Beni Ensar, especially as recent years have seen the construction of additional infrastructure on the Spanish side to organise the trade. Barrio Chino has three lanes that lead into Morocco, all of them are for foot traffic. Nothing signifies their purpose for informal cross-border trade more clearly than the three signs over the entrances to the border crossing. On top of the Spanish and Arabic words for ‘Entrance’, there are two silhouettes depicting *portadores*: one man, and one woman, carrying a large bundle of goods (see Figure 14).



*Figure 14: Border crossing at Barrio Chino.
(Photo: Ultimocero.com)*

Every morning, between 7am and 11am Moroccan time⁴³, these three lanes are incredibly busy – Barrio Chino is the epicentre of the large-scale wholesale informal trade operations between Melilla and Morocco. Transporters, so-called “portadores” or “hamala” wait in lines, under sheet-metal shelters on a large space near the crossing. Trucks can be observed as they bring goods from the nearby warehouses, pre-packed in bundles wrapped in plastic sheets, and marked with numbers and symbols that mark them as the property of a particular owner. Organised by the Spanish Police, transporters then pick up the bundles and carry, push and roll them up the small passageway to the border crossing.

Here, three metal turnstiles present the key bottleneck of the border – the police let traders approach them in small groups, and local intermediaries, employed by the larger traders, stand at the turnstiles to facilitate a smooth flow of carriers through them (ML3). Similar to the Beni Ensar crossing, there are payments to the Moroccan customs officials, but they depend on the type of transporter. The large group of traders who work for one of the bigger wholesalers do not pay a bribe, as this is organised centrally by the wholesaler. While there are essentially no independent small-scale

⁴³ Exact times can change according to season.

traders in Barrio Chino, there are groups of transporters who organise transport for smaller wholesalers, usually exploiting personal relationships to customs officials in order to negotiate low bribes.

On the Moroccan side, traders are quickly ushered to larger vans, in which the numbered bundles are stacked and then transported across Morocco. Contrary to Beni Ensar, there seems to be a lot less scrutiny of the content of the bundles at the moment they cross the border. This most likely relates to the absence of small independent traders – the traders operating here, as well as their goods, are well known to Moroccan customs and security services. Still, it appears that some goods that cannot be brought through Beni Ensar, such as alcohol, are being traded in Barrio Chino.



*Figure 15: Shelter for traders, police surveillance tower and border fence at the Barrio Chino crossing
(Photo: author)*



*Figure 16: Marked truck at the Barrio Chino crossing.
(Photo: author).*

Even though the border between Melilla and Morocco is located in an urban setting, and contains a significantly higher level of infrastructure and surveillance capacity on both sides of the border than the border between Tunisia and Libya, the way in which smuggling is regulated at both borders shares important similarities. As in Tunisia, the procedures at the border between Morocco and Melilla are entirely illegal, and yet they are highly routinized and organised, regulated primarily by state officials. While no written version of these procedures exists in the Melilla case, they are widely known to everyone involved, and include some form of written documentation, such as the “tickets” at the Beni Ensar crossing.

As in the Tunisian case, these institutions also function as a regulation of the types of goods that can cross the border informally, and, through the combination of the temporal restrictions and the pace and size of the turnstiles, create a strict limitation of the number of goods that can pass through. As in Tunisia, large elements of this regulation are impersonal: anyone with a Nador residency card (that allows the free movement to Melilla without a passport) can work as a transporter, and no particular connections to customs officers are required. Even for people not from Nador, a Nador residency card is easily acquired – transporters from outside the area told me they were able to purchase residency cards for villages near Nador for around 2500Dh (M36). Still, personal connections, as well as capital, have guaranteed larger traders advantageous positions within this system – a theme that later chapters will return to.

5.4 Morocco – Algeria: Regulation at a Closed, Rural Border

As the sections above have outlined, formal border crossings play a crucial role in the organisation and regulation of smuggling at the Tunisia-Libya and the Melilla-Morocco borders. They provide crucial nodes at which the trade can be easily coordinated, surveyed, and where payments can be extracted. The border between Morocco and Algeria then provides an interesting case study to examine the regulation of smuggling in the absence of formal border crossings, as the land border between the two countries has been formally closed since 1994.⁴⁴ As this section highlights, the regulation of smuggling at this border still exhibited significant similarities with the procedures at the border crossings of Melilla or Ras Jedir, as informal crossing points were quickly established by smugglers and security forces along the border. While regulation along these points was not always uniform, they provided points of coordination, predictability and regulation.

The trade in gasoline, which for many years dominated the informal cross-border trade, is instructive here. Algerian gasoline, cheaper than Moroccan gasoline due to the Algerian subsidy regime, would be collected at Algerian gas stations by filling up tanks, and then re-filled into jerry-cans in large storage facilities in rural farms near the border. They would then be brought by Algerian traders to pre-agreed meeting points along the border. As former traders have recounted, there would usually be a set of about ten potential meeting points, the one that would be used would be pre-arranged by the Moroccan and Algerian networks on a day-to-day basis (M7, M102, M103, M104). At these points, the gasoline would be sold wholesale to Moroccan ‘first buyers’ who would transfer it to depots in rural Morocco, where it would typically be re-sold to ‘second buyers’ who would transport the gasoline across the country. These exchanges were exclusively conducted at night. However, Moroccan and Algerian traders would not be the only ones in attendance at these meetings: both Moroccan and Algerian soldiers were involved in the organisation of these exchanges, with the Algerian soldiers usually playing the dominant role. The soldiers would not only observe the procedure, but also act as mediators in the case of conflict between

⁴⁴ The regulation discussed here ceased to be in effect with the construction of significant border fortifications by both Algeria and Morocco from about 2015 onward. This is discussed in detail in later chapters.

the traders, or as enforcers of a quiet and orderly exchange, if anyone was making too much noise (M7). Both Moroccan and Algerian soldiers would receive a payment from the traders – commonly the Algerian traders would pay the Algerian soldiers, and the Moroccan traders would pay the Moroccan soldiers. The level of these payments would typically be fixed, for example, Moroccan soldiers would receive 5Dh (GBP 0.4) for every 30-litre canister that a trader was buying that night. The rates for the Algerian soldiers would occasionally change when a new captain was assigned to the local force (M7).

Further crucial fix-points within the trade were ‘gates’ in the border fence on the Moroccan side that the Moroccan military would operate in order to organise and regulate cross-border informal trade. A variety of these points existed around the border near Oujda, along with specific times during which they were opened. One gate was opened every night between 7pm and 2am, another one between 8pm and midnight (M111, M35, M80). During this time, Moroccan soldiers would let traders pass across the border, as well as back into Morocco. These crossings did not appear to be operated in coordination with the Algerian soldiers and continued to operate even when Algeria started to crack down on the trade and increase its own border security. Traders reported that Moroccan soldiers would screen and inspect traded goods as traders entered back into the country – at least in the case of new traders (M35). It appears that illicit goods were not traded through these gates, dominant goods here were gasoline, cigarettes, fabrics and household items. Prior to 2010/2011, soldiers would collect bribes from traders of all goods. In 2010/2011, in parallel to similar changes at the Melilla border crossings, this procedure appears to have changed: small scale-traders, especially small-scale traders of gasoline were not asked to pay bribes anymore by the Moroccan soldiers and could pass through the gates for free. Bribes for larger quantities and higher profit margins remained. While some traders report that this change came after demonstrations by traders against the high costs of bribes, others say they did not know what prompted the change. However, similar to the traders between Nador and Melilla, they all agree that this change implied an effort by the Moroccan government to decrease the burden on poorer informal cross-border traders. In the words of one former gasoline trader:

“This was to make it easier for people. The order came from the very top, from the King. ... Oujda is not a touristic city, we don’t have any other projects, we

have nothing else, so people would starve. So, if the government stopped this, trust me, there would have been the biggest demonstration in the world. This came all the way from the top, from the King, to not take bribes, and to let them pass easily. But if someone brought cigarettes, for example, he'd make a lot of money, so he would have to bribe a little bit. If there were 4 soldiers, for example, he would have to give them each 200[Dh]"(M35).

Another gate that requires special mention is that near Beni Drar, a town approximately 15 miles North of Oujda, and one of the key distribution centres of informally traded goods, and particularly gasoline, in the region. The informal border crossing near Beni Drar appears to be the only one in the region that operated both during the day and during the night. Additionally, while many other border crossings saw people bringing goods through by hand or on the back of donkeys, there are many reports of entire trucks, or even entire busses passing through the gate, and directly to Beni Drar, where they were unloaded and distributed among local vendors (M102, M103, M35).

While these informally arranged points along the border are not formal points of entry like the border crossings at Ras Jedir or Melilla, they share important features for the regulation of smuggling. They facilitate the structure and regulation of the trade, and make it easier to monitor through the security services. As in the case of the other two borders described here, they are connected to institutions that restrict the types of goods that can pass through these channels, and make the process of paying to security services standardised, predictable, and ultimately, affordable even for small-scale traders. The existence of these regulatory structures at the Morocco-Algeria border suggests that the regulatory structures found at the official points of entry on the other two borders was also not merely a side-effect of the existence of official points of entry, but of wider political economy structures.

5.5 Outside the Nodes: Evasion, Violence and Border Games

While the above sections have highlighted the key regulatory institutions that structure informal cross-border trade across three borders in North Africa, it would be misleading to suggest that these institutions regulate all smuggling activities across these borders. To quote a Moroccan official in a local development agency: "The

doors, they were made for control. But there were other things going on” (M80). While the institutions described here have regulated the smuggling of the majority of goods, they do not account for most illicit goods, which, as has been discussed above, cannot be traded through these institutionalised procedures. This applies in particular to drugs – cannabis, cocaine and synthetic psychotropics – for which there are large smuggling routes running through North Africa, but also arms or ammunition.⁴⁵ In addition, some well-connected traders may also seek to trade licit goods outside of the impersonal systems described above, if they believe they can generate opportunities to trade on better terms outside of them. On the Tunisia-Libya border, these goods are typically transported on 4x4s across the border south of the Ras Jedir crossing, through rugged terrain that requires experienced drivers, locally dubbed the ‘contra route’. Similarly, on the border between Algeria and Morocco, smugglers try their luck outside the informally arranged border crossings – many of them moving cannabis-based products grown in Morocco.

As the focus of this project is on licit goods, the vast majority of which are exclusively regulated through the institutions listed above, they are also the focus of this chapter. However, through providing one regulatory environment for one set of goods, these institutions still affect the opportunities, geographies and risk profiles for trade outside of their ‘jurisdiction’, while not directly regulating them. For example, by providing structures that incentivise traders in particular goods and quantities – small amounts of licit goods for example – to trade through points of entry, they shape the expectations that soldiers outside of points of entries have of the traders they encounter there. Microwaves, carpets or children’s clothes would not usually be traded illegally outside of the more normalised nodes, which would offer a vastly superior cost-risk trade-off, especially for small-scale smugglers.

However, some of the observations made in this project give good reason to question whether even the trade outside of these more institutionalised channels is conducted in a fashion that is entirely unregulated, or “under the radar of the state”. Two dimensions of this are worth highlighting here.

⁴⁵ See Chapter 3. In addition, some goods with particularly high profit margins, such as mobile phones, are also reported to be traded outside of these nodes.

First, Traders, security forces and politicians across the two large border case studies (Tunisia-Libya; Morocco-Algeria) report the existence of ‘security arrangements’ in which smugglers, even as they are trying to evade security forces as they are crossing the border, will still report suspicious activities along the border, and the presence of unknown individuals, back to the security forces (M110, M111, FG4, T9). While some of these agreements seem to have developed out of clientelist relationships with security forces, others seem to have grown historically out of similar agreements with pastoral communities in the borderlands (T111). Here, farmers watching livestock out in the borderlands had maintained arrangements with security forces, informing them of unknown individuals operating on the border. It is worth noting that there is an incentive for smugglers to engage in these activities: increased perception by security forces that the part of the border that they operate in is unmonitored and used by dangerous individuals might lead to higher security force presence there, increasing the cost of smuggling.

And second, even though there did not seem to be clearly institutionalised rules on smuggling across the ‘contra routes’, there do appear to be at times certain regularities and predictabilities in the interactions between smugglers and security forces in these areas. These perhaps more resemble ‘border games’ (Andreas 2009), which through their own rules institute a certain regularity, and an observable and predictable outcome. An example may serve to illustrate:

In March of 2017, I was sitting in a roadside café in Southern Tunisia – it was the only café in a small village near the border, south of Ben Guerdane. I was talking to the only two other customers: a friend of mine that was working nearby, and a local smuggling boss, who has around ten young men work for him. On most nights, they drive across the desert to Libya and return with a variety of goods, some licit, such as tea and cigarettes, and some illicit. Recently, with the closures at Ras Jedir, more people had started working in this territory. The installation of a ditch and surveillance equipment to improve border security in recent years has not done much to change this trade: they either put boards over the ditch and drive across it, or simply throw the goods across. Most of the traders do not own their own cars, they lease expensive and fast SUVs, for one principal purpose: to outrun the local customs agents who are charged with preventing illegal trade in this sector. “Our cars are much faster than theirs”, the man brags. It is easy for us to verify this from the little café: while many

of the smugglers' cars are parked next to the café, the customs agents' cars are parked next to their small headquarter on the other side of the street. While smugglers and customs agents play cat and mouse at night, they are sitting right across the street from each other during the day. They know each other. "It's like a game." If they get caught, they negotiate a bribe. They don't resent the customs officers for their role in this, it's "normal", he tells me (T87). If they make it through uncaught, they are home free. Once they are home, as the sun rises, their goods are no longer up for scrutiny. The likelihood of getting caught, and its price, is a part of the calculations of the smugglers. Their expected income is subject to a repeatedly played game, a game that is well established, and that every player understands. When one of the customs agents refuses to take bribes, the smuggler recounts, they know his superior and can easily arrange for him to be transferred somewhere else. And the game continues.

As this example suggests, the absence of regulation through rules does not imply that even illicit smuggling is entirely unregulated, or that it is regulated in the absence of the state, or that it is regulated entirely through personal relationships. Even arrests of smugglers, in this context, do not necessarily need to be proof of an attempt by state security forces to eliminate smuggling. I was speaking to a human trafficker in Morocco about the time he was arrested, and which led to him spending a significant amount of time in jail. Still, he didn't perceive his arrest as a part of any kind of strategy by the police to stop human trafficking, which he felt was "tolerated" by the police. However, once in a while they would have to arrest someone to show that they were doing their job, he explained, and that time it hit him (M111).

One final caveat is in order here. When highlighting that, even outside the more institutionalised 'nodes', smuggling is not necessarily without predictable structures, it is still worth noting that these activities have also not been without violence in the past few decades. Its most extreme expression has come with the deaths of young traders, usually from the borderlands, who have died crossing the border, shot by security services or as the result of car crashes after nightly chases through difficult and dangerous terrain. Along the Morocco-Algeria border, traders have reported that this phenomenon has decreased since the 80s, especially under the regime of Bouteflika (1999-2019), but did not entirely stop (FG4, M111). The last few years have also seen multiple deaths along the Tunisia-Libya frontier. Deaths have also not been limited to the rural borderlands – as discussed above, the vast numbers of traders

seeking to move through the small spaces of the Melilla border crossings have caused altercations, stampedes and injuries, and resulted in multiple deaths in recent years.

5.6 Informal Institutions and the Regulation of Smuggling in North Africa

This chapter began by describing a common notion of a general ‘porosity’ in North Africa’s borders, where smugglers of licit goods, smugglers of drugs and arms, or terrorists all slipped through the same spaces, under the radar of the state. As this chapter has demonstrated, this is not an accurate description of how most smuggling activity looks in the region. Instead, what has emerged from this mapping is that smuggling in North Africa is a densely regulated activity. Informal institutions at border crossings, meeting points along the border, police checkpoints and markets serve to structure, normalise and control the trade. They are able to affect the number of goods that come into the country illegally through physical bottle-necks like turn-styles, through regulations on the size of the vessels in which goods may be transported, and time limits on when goods can be traded. Most smugglers trading through Ras Jedir and Melilla are not spending their days evading their police – they are spending their days standing in line.

Crucially, they can differentiate between different types of good. As the sections above have demonstrated, across the three diverse borderlands studied here, different regulatory nodes exist for different goods. A pattern emerges that separates most licit goods from illicit goods: the path that contraband tomatoes – or textiles or TV sets for that matter – would take across the region’s borders, is not available to terrorists aiming to smuggle weapons, or to networks smuggling narcotics. Returning foreign fighters or those on travel blacklists would have serious difficulties passing through these nodes – and even face difficulties outside of them. This is not to say that the smuggling of illicit goods does not occur in the region – it certainly does. But its origins do not lie in a general, unregulated porosity of the region’s borderlands, which can be used by smugglers of gasoline and guns alike. Instead, we must note that the porosity of North Africa’s borders, even where illegal trade occurs, is regulated, and, in its regulation, segmented.

As this chapter has highlighted, the regulation of smuggling at these nodes is not just structured through petty corruption, but through institutions, the systematisation of which – organising an interaction based upon commonly understood and coordinated rules of the game – differentiates them from individualised instances of corruption. Despite their normalisation and visibility, the institutions regulating illegal cross-border trade must be classified as informal, as they remain in direct contradiction to the formal law – communicated through the ‘officially sanctioned channels’ (Helmke and Levitsky 2004). And while state actors play a crucial role in their maintenance, they do not do so in an official capacity, differentiating them from the hybrid institutions that will feature more prominently in the following chapter.⁴⁶ And yet, these institutions reveal some features that are in contrast with common characterisations of informal institutions in modern mainstream institutional scholarship, as described in Chapter 2. Two points, in particular, stand out.

First, they provide an example of informal institutions that are capable of providing impersonal regulation. As discussed in Chapter 2, one of the traditional theoretical distinction between formal and informal institutions in mainstream political economy rests on the assumption that informal institutions are inherently personalistic. “By definition”, Khan (2010, 12) writes, “while most or all formal institutions are impersonal, informal institutions are never impersonal.” The classic characterisations of informal institutions as small-scale, inefficient, unwritten, ultimately follow from this primary assumption. The analysis presented here, however, does not support this assumption. The informal regulation of smuggling at the Ras Jedir border crossing, at the Melilla border crossings, and at the ‘gates’ alongside the Algerian border with Morocco are all largely impersonal. They require certain characteristics of the people involved in them, such as Tunisian passports or a residency card for Nador, but this is not untypical for impersonal institutions. They are not tied to personal identities – surely, family connections help in the smuggling business, but in the same way, they also do in the formal sector: beyond regulatory institutions, not as a feature of them.

⁴⁶ One exception to this are the members of the Spanish police, who help structure the trade in Melilla in their official function. However, while the traders are in Melilla, and throughout their interactions with the Spanish police they are not breaking any laws, suggesting that their interaction with the Spanish police is secondary to the regulation of smuggling ‘at the border’ discussed in this chapter.

Second, they provide examples that informal institutions can provide regulation that contains third party enforcement. Some of the logic behind the assumption that informal institutions are incapable of operating impersonally lies in the expectation that they lack third-party enforcement, that they are self-enforcing (Ostrom 2005; Greif 2006) and those adhering to them are required to avoid persecution when they stand in opposition to the formal law, hence requiring them to operate on a basis of trust or mutually rational equilibrium behaviour. Once more, in the context of the institutions observed here, these expectations do not hold: police, customs agents and soldiers, albeit unofficially and illegally, systematically act as enforcement agents for these institutions and tolerate illegal activities within the realm of these institutions. While in some cases, they appear as corrupt patrons of individual smugglers, in others we observe them enforcing informal rules, either collecting no bribe at all or collecting a fixed bribe level that has been agreed as part of the institution itself. Crucially, they create interactions that are predictable and necessitate neither trust nor evasion.

The observations that informal institutions can operate impersonally and with third party enforcement can be extended to noting that informal institutions do not necessarily need to be ‘stateless’ in order to be informal. Even when they are in direct contradiction to the rules communicated through the ‘officially sanctioned channels’, they can still be supported and enforced, informally, by these same channels. Here, state officials involved in the maintenance of these institutions are acting systematically and in accordance with a negotiated role rather than through individualised corruption. While this will not surprise most observers of the politics of regulation, this has been underappreciated as a systematic starting point in modern institutionalism. This extends the argument of the literature on ‘forbearance’ on the purposeful non-enforcement of formal institutional regulation (Holland 2016; 2015; Tendler 2002) to the purposeful enforcement of informal institutional regulation. It also supports the legal pluralist case for a more critical treatment of any inherent differences between formal and informal institutions, as discussed in Chapter 2.

For this project, the role of states in the regulation of smuggling across their borders provides a starting point for the analysis of the politics of smuggling. It directly points to central questions of future chapters – how are rents from these institutions distributed, who benefits from this regulation and why do states engage in it (Chapter 7)? How are these institutions negotiated and how do they change (Chapter 8-10)?

First, however, the following chapter will complete this mapping of the regulation of smuggling by looking at regulations that engage with the trade once smuggled goods have crossed the border.

Chapter 6: Regulating Smuggling II – In the Borderlands

6.1 Introduction

While crossing a border is a crucial and prominent moment in the organisation and regulation of smuggling, it is not the only point at which global smuggling networks encounter regulation. From production to transport within a country, accompanying financial flows, storage and sale, different forms of regulation influence smuggling activities. While providing a complete account of all of them lies beyond the scope of this project, this chapter aims to highlight two additional dimensions of regulation. One is the regulation of the distribution of smuggled goods, and the other is their embeddedness in local conceptions of morality, religion and legitimacy. While they are not the only place in which smuggled goods are being sold, regulated or thought about, I have located both discussions in the borderlands, in keeping with the focus of the project.

The previous chapter has highlighted that the regulatory institutions at the borders of Tunisia and Morocco differentiate between different types of goods and rely on the toleration and involvement of state agents. This chapter extends this finding to the institutional regulation of the distribution of smuggled goods. It notes that the institutional structures regulating the distribution of smuggled goods in city markets involve a hybridisation of informal institutions and, in contrast to the border itself, officially recognised state involvement that has largely developed out of a desire to tax these goods. At the same time, the distribution of gasoline in roadside stations has been selectively tolerated and subject to resource extraction by security forces, but not undergone a similar hybridisation process.

The literature on religious and moral evaluations of smuggling in North Africa (Raineri 2019; D. J. Scheele 2012; Hüsken 2018) has emphasised their potential in regulating the structure of the trade, and the importance of non-state references such as religion and tribal identities in legitimising informal trade in the eyes of the local population. This chapter does not advance a singular, definite place of North Africa's smuggling networks in the moral perceptions of the region's borderlands. Instead, it

highlights the diversity of moral evaluations of smuggling in the region that are shaped by varying perceptions on the moral status of different goods, the permissibility of breaking the law, and the ability to sustain livelihoods.

Combined, these two discussions advance a point of caution with respect to hybrid governance in the regulation of North Africa's borderlands. A range of the regulatory structures discussed in this chapter represent hybrids, drawing on formal and informal institutional structures. However, the chapter's discussion on local normative perceptions does not demonstrate that these informal institutions are normatively embedded and locally legitimised in the sense that some of the more optimistic hybrid governance literature suggests. This points to important questions around the origins and status of these institutions, which subsequent chapters will expand on.

The remainder of this chapter is divided into three sections. The first section discusses the regulation of the sale of (licit) smuggled goods in the borderlands of Tunisia and Morocco. It contains four sub-sections, examining the 'Libyan markets' in Tunisia's Medenine region, the city markets in Morocco's Oriental, drawing conclusions from their comparison, and examining the regulation of the sale of contraband gasoline in both case studies. The second section explores how smuggling is conceptualised in local accounts of morality, religion and legitimacy, seeking to understand both how regulatory institutions are perceived locally, and if this in itself exerts a regulatory influence on smuggling networks. A final section briefly concludes.

6.2 City Markets and Roadside Gas: Regulating Smuggling at the Point of Sale

The dynamics of the regulation of smuggling at the point of sale is substantially different from the regulatory dynamics at border crossings. While the objective of regulation at the border is the management of its porosity and the control of the type and quantity of goods that are brought into the country through certain channels, the objective of the regulation at the points of distribution inside the country is the maintenance of a distribution system that can be monitored and taxed, while at the same time remaining segmented from the distribution system of formally imported goods.

As this section demonstrates, this change in objective also affects the type of institutional governance. While the regulation of smuggling at the border relied on the routinised and systematised involvement of state actors, this was never officially communicated, acknowledged or connected to their formal institutional roles. In contrast, the institutions governing the distribution of some informally imported goods include institutional elements that are officially supported by the state while still maintaining elements that are illegal. As this section argues, this is once again limited to selected types of goods and has largely resulted out of efforts by local municipalities to generate tax revenues from informal markets.

This section begins by discussing the main distribution channels for informally imported licit goods in Tunisia, known as the “Libyan Markets”, followed by the city markets in Northern Morocco. It will then look at one stream of goods that largely falls outside of the remit of these markets: the sale of contraband gasoline, which is regulated through a combination of enforcement strategies that tolerate the point of sale, but make the transport of goods between points of sale costly.

6.2.1 Tunisia: The Libyan Markets

As the informal cross-border trade of consumer goods expanded in Tunisia in the 1980s, it required a distribution system that was reputable, predictable and safe enough to attract local – especially female – customers. The rotating weekly markets, a century-old institution in rural Tunisia (Michalak 1983), which in their organisation largely mirrors periodic market structures that are common across Africa (Perry 2000; Bromley, Symanski, and Good 1975), provided an ideal platform. They required little infrastructure investment, and could easily be expanded or imitated in other public spaces (Gallien 2015). Most importantly, they were only very loosely regulated. While market fees were either collected by municipal agents or tax farmers to whom the right to tax the market had been sold (Azabou and Nugent 1989), vendors in the markets were generally not required to hold a permit, as other Tunisian vendors usually do. For many of the vendors who bought from local farmers and sold products on the markets, there was not even a legal category in which they could apply for a permit or an entry in the commercial registry (FG6).

Vendors of smuggled goods, especially fabrics, carpets and kitchenware, quickly flooded the local weekly markets. The growth in demand strained the infrastructure of the markets and produced problems for municipalities – vendors expanded into roads, clogging up traffic, and began to overstay the usual market times. Seeking to both organise the markets and find ways to extract money from them beyond the market fees, municipalities began to ‘formalise’ sections of these informal markets that were largely selling smuggled consumer goods. This typically included the provision of additional market space specifically for the vendors of smuggled goods, the walling of new markets, or the provision of additional infrastructure. The “Souk Libya” was born. Tunisia’s smugglers hence followed a common global trajectory of informal traders from roadside vendors to state-built markets – and in a way mirror the sedentarisation of the Southern tribes one century earlier. Today, “Libyan Markets” exist across Tunisia, from Medenine’s “Souk Libya” all the way up to the “Souk Moncef Bey” in Tunis. Needless to say, there is heterogeneity in the organisation and regulation of these markets – I focus here on two of the most prominent markets of the Medenine region.

One of the largest such markets lies, unsurprisingly, in Ben Guerdane. A bit outside of the town centre, on the road to Zarzis, the market consists of a wall, over 400 concrete shops, parking spaces and a field that is filled up by even more vendors on the weekend. Especially on Saturdays, the market is buzzing, as both locals and customers from surrounding towns navigate between the colourful piles of blankets, carpets, clothes and kitchenware to haggle for bargains. The market includes sanitary facilities, parking spaces, and used to have an ATM, which was burned in the 2011 revolution (FG1, FG2). And while all the goods sold in the market have been brought into the country illegally⁴⁷, no policeman would attempt to disrupt the goings-on in the market. On the contrary, the market has a small in-built police station, tasked with protecting the market and ensuring its functioning. While most markets of this kind in Tunisia are just colloquially referred to as “Souk Libya”, a brief enthusiasm around the idea of the Maghrebi union in the 1990s gave this one its current name: Souk Maghrebi. The history of its creation is shaped by the efforts of the municipality of

⁴⁷ While these goods are imported illegally, they are themselves licit goods – weapons or narcotics are not sold in the markets. The sale of gasoline will be discussed below.

Ben Guerdane to create a controllable and taxable distribution structure for informally imported goods through creative institutional innovation.

Having decided to build a market structure for the group of vendors that were selling smuggled goods to an ever-growing number of customers in the late 1980s, the municipality of Ben Guerdane faced two obstacles. First, they did not have the funds to construct the market themselves, and second, they did not own the land. As with all territories in Tunisia that contained significant amounts of salt, the land was officially the property of the Ministry of Defence (T84). Since this made it impossible for the municipality to either claim or transfer full ownership rights, they opted for an unconventional approach: they built an enclosure and rudimentary market infrastructure in 1991, and gave out permits to local traders, instructing them to build stalls themselves, and allowing them to operate out of them in exchange for a yearly fee (T15, T84).

The fact that the land did not belong to the municipality was not communicated to the traders, and both the construction of the stalls and the extraction of a yearly fee was therefore not entirely legal (T39). On this basis, a hybrid regulatory system developed around the Souk Maghrebi market, made up of an informal trade distribution network governed by an improvised but officialised regulatory structure through the local municipality, which continued until the 2011 revolution.⁴⁸ This regulation of the use of this land was done officially, and with a high degree of bureaucratisation, despite the fact that the municipality was not acting strictly legally (T39). One high municipal official in Ben Guerdane described the arrangement to me as “informal, but controlled” (T35).

During this time, the municipality not just tolerated, but actively encouraged, supported and regulated the activities of the market. It provided sanitary facilities and organised the cleaning and security of the market. It never made an issue of the origins of the products that were sold there - quite the opposite. As busses brought more and more customers from around Tunisia to Ben Guerdane, they would often have problems with customs officers who stopped them on the road north, asking about the origins of their goods and demanding a bribe. So, the municipality set up a booth in

⁴⁸ The breakdown of this agreement, and its subsequent re-negotiation, will be discussed in Chapter 8.

the market where it issued receipts that could be shown to customs agents in order to prove the legality of the goods. Of course, and as local administrator confirmed to me, this practice was not legal (T62). It was however at that point an official practice by a state institution. And, of course, the municipality collected a fee for this activity. Alongside the fee that it collected from the vendors, ranging from 120 Dinar (GBP 30) before 2005 to 300 Dinar (GBP 77) in 2009, the income from the market began to make up a significant portion of the municipal budget (T32).

Apart from the collection of fees, this organisation of the market also allowed the municipality to exert some control over the allocation of spaces, and use this as a basis for clientelist influence (T35). It also allowed it to monitor the ownership and usage of the market – I was able to receive a complete list of the operators of all the stores in the market from the municipality, alongside their phone number and payment history. The regulation of the market also included the prohibition of certain goods from sale in the market: large-scale items such as cars could not be sold in the Souk Maghrebi. More importantly, flammable liquids were not allowed, which left the gasoline traders to develop a separate distribution mechanism outside of the Libyan markets.

Alongside the regulation produced by the municipality, there lies a small degree of regulation that is entirely informal and maintained among the vendors, including a designated day every week on which the market is closed (Monday), and a minimum wage of 300 Dinar paid to the employees in the market's stalls (T62). Vendors also organised amongst themselves to provide additional security for the market, as what the police provided was insufficient, and cooperated in the construction of roofing for the small passageways through the market.



Figure 17: Receipts for the payment of the yearly fees to the municipality by the vendors of the Souk Maghrebi (Picture: author)

While the complications of the land ownership shaped the institutional set-up of the Souk Maghrebi, other Libyan markets provide a variety of other institutional hybrids. The Souk Libya in the city of Medenine was constructed by the municipality of Medenine in 2002, after a pre-existing market had burned down under disputed circumstances. The municipality directly rents the stores to 123 vendors, and has written contracts with them, which stipulate some restrictions on the types of goods that are allowed to be sold in the markets, excluding, for example, flammable liquids. The contracts, however, make no mention of the goods' origins. Bureaucrats in the municipality of Medenine expressed the opinion that it was their responsibility to enforce local rules and regulations, and only those (T26).

The vendors in Medenine's "Souk Libya" typically do not have a permit, so they do not pay income taxes, but they pay rent (around 40 Dinar per month) to the municipality, and pay a market tax to a private revenue collector who purchases the right to tax the market on a yearly basis. In 2014, the city began planning the construction of another market after the same model to deal with the high demand for commercial space (T26). At the same time, it still operates another market, the 'Wadi Market', which consists of more shabby stalls built by the vendors themselves, who pay a relatively minor fee of 90 Dinar a year to the municipality. And on the weekend, and especially early on Sunday morning, a huge market fills Medenine's dry riverbed. Alongside agricultural products and animals, many of the goods sold are smuggled.

Here, the early institutional set-up of the weekly market dominates the regulation of the trade, with no formal registration, little control over the type of goods, and a set fee paid to the municipality or a tax farmer.

This is partly explained by the fact that much of the organisational structure of the periodic markets in Tunisia largely pre-dates the modern Tunisian state (Michalak 1983). The markets however largely remained regulated by these embedded practices, with local parts of the state primarily attaching themselves to these pre-existing structures in order to extract some revenue and integrate them into local urban management plans. The resulting institutional bricolage (Cleaver 2001) has created much of the modern institutional structure through which the distribution of smuggled goods interacts with the Tunisian state.

However, the sale of informally imported goods in Southern Tunisia is not limited to these market structures. As the Libyan markets grew, so did a vast distribution network of traders who would buy goods in Ben Guerdane or Medenine, and transported them across Tunisia (Meddeb 2012). With this came the demand for more wholesale trade in smuggled commodities. While large-scale traders originally began selling on a large space behind the Souk Maghrebi, the ground there was of poor quality, and traders started building warehouses along the road between Ben Guerdane and the Ras Jedir border crossing. Here, larger quantities of goods were sold directly to other traders.

Here, too, the municipality of Ben Guerdane managed to engineer institutions that allowed it to tax these activities. While they could not extract rent from traders, as they owned the land they had built stores on, or charge market fees as they were selling outside of a market, they instead picked up on the practice of traders storing goods in front of their stores, and using the space on the side of the road to load and unload

vehicles, and hence charged the vendors a yearly fee for the “temporary use of public space” (T41). In 2010, this fee was set at 150 Dinar (GBP 38) per year (T41).



*Figure 18: Wholesale of smuggled tires on the Ras Jedir Road
(Picture: author)*

6.2.2 Morocco: The City Markets

In their historical development, structure, and institutional hybridity, the regulation of the distribution networks of licit smuggled goods in Morocco shares significant parallels to the Tunisian case. Recent years in Oujda⁴⁹ have seen intense activity in the creation of new market structures that have created new regulatory institutions and have further solidified the ability of local municipal authorities to extract revenue from these markets.

As in the Tunisian case, distribution networks for informally imported consumer goods in Morocco began to build upon local traditional market structures as they expanded, taking advantage of their regulatory informality and flexibility. Oujda’s most prominent market for the sale of smuggled goods from Algeria, like its counterpart on the other side of the border still betrays that heritage in its name: “Souk Fellah”, “farmer’s market”. While in the 1970s, it functioned primarily as a market for fruits and vegetables, they are now nowhere to be found in the narrow alleys

⁴⁹ While this section focuses on Oujda, many of the observations made here also hold true for Nador, the second large city of the Oriental region.

between self-constructed stalls which sell a wide variety of consumer items associated with the informal trade to Algeria: electronic goods, construction materials, cleaning products, beauty products.

The land on which the Souk Fellah was built is privately owned by a single landlord. Vendors sell out of a mix of temporary stalls built in the 1990s and self-built concrete structures, mirroring the case of the Souk Maghrebi (M3). Just a few hundred yards down the road, a new market has been built by the municipality for the vendors currently selling in the Souk Fellah. Many of them, however, are skittish about moving to the new location – they are worried whether their customers will follow them, and whether they will be able to maintain the Souk Fellah ‘brand’ as a market for cheap (and informally imported) goods (M53). If the vendors decide to move, the new Souk Fellah will be the completion of a decade-long strategy by the municipality of Oujda to formalise its informal markets. As in Ben Guerdane and Medenine in Tunisia, these attempts have produced a variety of hybrid arrangements, all of which allow the municipality to officially regulate, organise and tax the sale of smuggled goods.

One of the largest markets in Oujda is located just across the road from the Souk Fellah. The Souk Melilla is named after the origin of most of its goods – for decades, it has specialised in informally imported goods from the Spanish enclave, especially in clothes, fabrics, and shoes. While traders who were importing smuggled goods from Melilla had originally sold on the roadsides in the city centre, the municipality began directing them onto an empty piece of land in the 1960s – the location that now houses the market. The original stalls were self-built and rather rudimentary. However, even in this early form, the market was already taxed by the municipality.

Before the creation of formalised market structures in the 2010s, the municipality had developed two mechanisms through which they could tax informal vendors, and especially vendors selling informally imported goods, the city’s primary commercial activity. First, the law 30/89 stipulated a fee that the municipality could charge roadside vendors.⁵⁰ However, due to the fact that the operation of these vendors was technically illegal, this fee was taken out of the law in 2008. The change left both the municipality of Oujda and the roadside vendors in a “delicate” situation, as a senior municipal official noted (M17). The municipality had relied on the income, while the

⁵⁰ The Arabic title of the fee: الرسم المفروض على الباعة الجائلين المأذون لهم في بيع سلعهم على طرق العامة

vendors had relied on the receipts from the fee as a legitimising mechanism in their interaction with local law enforcement officers – a strategy that has been repeatedly noted by scholars of informality, legitimacy and taxation.⁵¹ But the municipality learned to adapt. Another section in the same law⁵² allowed the municipality to charge fees for the “temporary use of public space for commercial purpose”. As the first fee disappeared in 2008, the municipality began to “migrate” vendors to the other fee, which swiftly was applied to most informal vendors in the city, and by 2011 covered most of the vendors in what now is the Souk Melilla (M17).

Vendors did not have licences, and their goods were smuggled, but they now held “temporary permits” for their commercial operation. Similar to the old receipt slips under the previous arrangement, this gave them not just an important piece of leverage against harassment by the police, but also a formal, official and predictable relationship with the municipality (M17). When I talked about the early phases of the market with Oujda’s mayor, Omar Hajiira, he fittingly summed up that relationship: “They were not really informal. Well, informal, but they were on our territory” (M60).

In 2011, this relationship was transformed by tragedy. On the night of the 26th of August, a fire broke out in the Souk Melilla, destroying a wide swath of its stalls and infrastructure. Its reconstruction took over 18 months and was conducted with heavy financial input not just from the local vendors, but also from the state through the regional administration, the Agence Oriental and the National Initiative for Human Development (INDH). While the state built most of the market infrastructure, significant investment and labour in the furnishing and construction of the individual shops – again, similarly to the situation at the Souk Maghrebi in Ben Guerdane, or the Souk Fellah across the road – came from the vendors (M48, M49).

The result was a large roofed market structure with electricity access for the vendors, a sanitary infrastructure, and even a small mosque. Over its entrance, the market carries the name that signals the origin of its goods – Souk Melilla – as well as the INDH logo, and a picture of the king (Figure 19). Still, vendors do not own their own stores in the market. Instead, they made an initial payment for the “key”, the right to operate out of a particular store, and then rent the stores from the municipality,

⁵¹ See Juul 2006 – I will elaborate on this more extensively below.

⁵² The Arabic title of this fee is: الرسم المفروض على شغل الاملاك الجماعية العامة مؤقتا لاغراض تجارية او صناعية او مهنية

typically for around 150 Dirham (GBP 12) per month (M36). They pay a separate fee for the electricity, and some of the vendors pay an additional fee for their membership in the market association, which can provide them with some medical benefits. Many of the vendors in the market do not have business permits, are not listed in the commercial registry, and hence pay no commercial taxes. But even for the ones that do pay, the taxes are “declarative” – they are dependent on the revenue that vendors report, and according to a senior official in Oujda’s tax service, controls in the market are barely existent and generally negotiable (M61).



*Figure 19: Women waiting outside of the new Souk Melilla
(Picture: author)*

Oujda’s different markets display a wide variety of regulatory arrangements. In the Souk Tanger, just across the street from the Souk Melilla, opened by the King in 2013, people own their stores but pay an ‘urban tax’ of 504 Dirham per year to the

municipality (M34). In the large number of smaller markets that the INDH has been building in Oujda's urban periphery, stalls are rented, though typically at negligible fees (M14). Despite this diversity, however, there are important commonalities that characterise the regulatory arrangements of these markets, and by extension of the distribution of smuggled consumer goods in Oujda.

First, an increasing number of the city's vendors are operating in an infrastructure that is to some degree constructed and owned by the municipality, but commonly also included some labour and financial investment by the vendors. Second, with the exception of some of the vendors in the Souk Fellah, the municipality has created institutions that allow it to extract some revenue from the sale of informally imported goods, primarily through permits for the temporary use of public space for commercial activities, market fees and stall rents. At the heart of this stands the substitution of stall and market fees for commercial taxes, the toleration of vendors operating without formal business permits and entries in the commercial registry, and the flexible handling of the declarative nature of taxation. This still leaves most vendors with a lower tax burden than if they were fully formal, while at the same time ensuring a stable and official relationship with local state authorities.

This connects directly to a third point: the relationship between the markets and state institutions, primarily the municipality and the region, is managed and negotiated through market associations, all of which are legally recognised, and represented in the Chamber of Commerce. Fourth, while there are some limits to the types of goods that can be sold in each market, there are no mechanisms that in any way account for, trace, or penalise the smuggled origin of the goods sold. The main mechanism for this appears to be a siloisation of the responsibilities of different state institutions. Authorities on a municipal level, of course, are fully aware of the origin of the goods in the market that is literally called Souk Melilla. However, they do not see this as their concern. To quote a senior official in Oujda's Chamber of Commerce: "If you have a locality, a fixed locality⁵³, and you are in the commercial registry, it really doesn't matter where the products come from" (M70). Or, in the words of the head of one of the market associations: "The government doesn't care about whether the products are legal, it's whether the market looks legal" (M59).

⁵³ As opposed to roadside vending.

The objective behind the construction of these markets was never, as a leading administrator of the Agence Oriental confirmed, to limit or restrict the distribution of informally imported goods: “we wanted to formalize the contraband, and make it visible” (M108). If any reference to goods’ origins comes up, local authorities have referred me either to the standards inspection, who in turn claim not to be able to inspect informal markets, or to the customs, who claim that they are both legally unable to operate within the city perimeter, and would likely cause riots if they were to try to do so. “We are not allowed to enter the Souk Melilla,” a high official in the regional customs office told me, “But also, it is just impossible. Just imagine – there would be riots” (M63). The customs agents, therefore, focus their efforts on controlling goods – or extracting money from their owners – when they are moving, both across the border and across the country – I will return to this point below.

6.2.3 Informal Markets and Hybrid Institutions in Tunisia and Morocco

As this section has demonstrated, the regulation of the sale of informally imported consumer goods in Morocco and Tunisia through city markets is remarkably similar. Generally, the institutionalisation of these markets and their embedding with official state institutions appear to be a little bit more advanced in Morocco, although it is worth noting that a similar development in Tunisia might have been delayed by the 2011 revolution – the municipality of Medenine, for example, has had the plans for another market finalised for years but has not been able to begin construction due to the political turmoil (T26).

In both cases, the regulatory structures around the markets reflect the interaction of the largely informal institutions of the traditional periodic markets with the novel institutions utilised by local municipalities in order to sufficiently formalise the markets so that they could extract resources from them. The result of this particular form of institutional bricolage (Cleaver 2012) is a set of hybrid regulatory institutions. Strictly speaking, various elements of the markets’ activities and regulations – from the lack of business permits to the faked letters of origin – are still illegal. However, contrary to the institutions at the border crossings discussed in the chapter above, the regulation of the markets sees not merely a de-facto involvement of state structures, but an official involvement, that is, in Helmke and Levitsky’s (2004) terms, communicated through officially sanctioned channels. Local state authorities are

openly transparent about their role in the market regulation in a way that they are not about the regulation at the border, to the degree that markets are branded with the logos of state institutions and presented as model development projects.⁵⁴

Going one step further, the institutional development around the city markets in Tunisia and Morocco in the past decade resembles a process not just of hybridisation, but of officialising, of creating documents and institutional structures that provide claims to formality for both the municipality and the vendors, without formalising the markets entirely. This strategic use of official documentation to create selective areas of ‘officialdom’ that are deeply embedded in informal systems has been a frequently noted feature within processes of hybrid governance.⁵⁵ This employment of officialdom relates not just to the vendors, but also to the goods themselves, which through passing through these regulated distribution networks are transformed from smuggled goods to goods that can comfortably be bought by consumers – and are thereby introduced into the economies of Tunisia and Morocco.

Across the case studies described here, municipal authorities have drawn on these institutions in order to tax city markets. As has been frequently noted in the literature on taxation, informal vendors are often willing to engage in taxing institutions to the degree that they also provided them with claims to legality (Juul 2006; Soto 1989). Taxation has structured the relationships between municipalities and vendors while transforming organisational structures in the markets. In both countries, this has been accompanied by the creation of market organisations and associations. Some of the literature on informality and taxation (Joshi, Prichard, and Heady 2013; Van den Boogaard and Prichard 2016) has suggested the possibility that this may lead to more accountability of state institutions to informal actors – Chapters 8-10, which trace the re-negotiation of the markets’ regulation, will pick up on these issues.

6.2.4 The Toleration of Roadside Gasoline

While a wide variety of illegally imported goods is sold in the markets described so far in this chapter – from cosmetics to foodstuffs, from carpets to kitchenware – there

⁵⁴ One exception here is the role of the Spanish police in Melilla, which is somewhat more officially communicated. This relates to the fact that, as discussed in the previous chapter, smugglers at this crossing do not break any laws while they are still under the jurisdiction of the Spanish police.

⁵⁵ See for example Bolt (2017).

are goods that are prevented from being sold on their premises. Similar to the structures at the border crossings, the regulatory structures of the markets do not permit illicit goods, such as narcotics or weapons. In addition to that, gasoline, one of the most widely traded smuggled goods in the region, is typically not sold in these markets. This section first reviews the distribution of contraband gasoline, before discussing its differences compared to the regulation of the markets discussed above.

In both Tunisia and Morocco, the sale of contraband gasoline is primarily conducted through informal roadside gas stations.⁵⁶ Some vendors, especially in the direct vicinity of the border in Tunisia, directly supply themselves from the smugglers who have brought the gasoline across the border. Most of the other informal vendors are supplied through transporters who buy from large-scale wholesale vendors and then act as distributors across the country.⁵⁷ During the heyday of contraband gasoline in both case studies, these structures functioned as the dominant supplier of fuel in both Southern Morocco and Northern Morocco (Ayadi et al. 2013; Hanlon and Herbert 2015).

⁵⁶ As later chapters will discuss, the informal import of gasoline largely collapsed in Morocco in 2015, and has been significantly diminished in South-Eastern Tunisia in 2017. This section on distribution structures describes these structures as they were during their heyday – however, the same observations apply to the smaller structures that continue to exist today, as the regulatory context within both countries has not changed significantly throughout this period.

⁵⁷ One caveat applies here: the distribution structures described here supply individual consumers of gasoline for cars, scooters and motorcycles. It is likely that separate distribution channels exist for large-scale consumers, particularly in agriculture, that are built on direct supply by transporters, rather than through the sale at roadside gas stations.



*Figure 20: Informal gasoline station near Medenine, Tunisia
(Picture: author)*

Amid widespread concern about vendors selling adulterated gasoline, establishing trust with their clients and transporters is a central concern for roadside vendors. Apart from establishing a sense of brand identity – a characteristic red light made of a plastic jerry-can, or a hand-painted “Total”-sign (Figure 20), the ideal strategy for vendors is hence predictable repeat interaction with their customers. Most of the roadside stations in the region are hence relatively stationary, even though the permanence of their infrastructure differs vastly, from a single jerry-can placed beside the road to wooden, iron, or even garage-like stalls built out of cement.

Despite their stationary and visible character, informal gasoline stations do not exhibit similar regulatory structures as the city markets and do not fall into the remit of hybrid institutions. Despite being illegal, they are generally tolerated by the police in both Southern Tunisia and Northern Morocco. While some traders mention having to pay occasional bribes, most of the vendors I spoke to claimed that they did not have to pay any bribes. However, the blanket toleration of informal gas stations by the police and the absence of hybrid regulatory institutions does not mean that there is no regulatory superstructure that manages the selective integration of these goods into the Tunisian and Moroccan market. In the context of illegally imported gasoline, in both countries, the regulation of distribution is best described as a form of geographic ‘zoning’ of the phenomenon, limiting it primarily through border regions. This is achieved through a

toleration of points of sale of contraband gasoline that exists alongside the prosecution or limitation of its transport within the country.

In Morocco, while there is no general crackdown against informal roadside gas stations, cars transporting gasoline across the country, and especially from the North-Eastern borderlands further South and inland, are commonly stopped on the road by police and customs agents. If caught, they usually face high fines, the confiscation of their cargo, and even the confiscation or destruction of their cars (M7, M101).

This has shaped the activities of different actors within the gasoline networks. While the so-called “first buyers” at the border, embedded in informal institutions that regulate their trade, and the vendors on the roadside, generally tolerated, are not particularly concerned with avoiding detection or fleeing from law enforcement, the “second buyers”, the transporters between the border-crossing and informal gas stations across the country, face a markedly different situation. With their cargo being unprotected by any institutionalised arrangement, they must constantly fear arrest. And so, their cars can be heard on the streets of Morocco’s North-East, driving at full speed, often at night, without lights, and without stopping, as if the devil was behind them. Locals call them *muqatila* (warriors), for their strength, their powerful engines, their recklessness (FG7). It is a dangerous business – apart from the risk of arrest and confiscation, accidents are common, and with a car full of gasoline, particularly perilous.

Crucially, this has created a distinct spatial pattern. Every mile that a *muqatila* has to transport gasoline inland from the border increases the risk of detection. This makes contraband less available, and more expensive, as the distance from the border increases. In effect, this mix of toleration and prosecution creates a tolerated integration of contraband gasoline into a geographically limited space – primarily the border regions.

The situation in Tunisia is similar. Here, too, roadside gas stations are generally tolerated and can be observed throughout the southern borderlands. And while transport across the country is not dangerous, it is equally costly. Here, the cost is not imposed through the risk of arrest or confiscation – this may occur, but appears to be rather rare. Instead, the cost of transporting contraband gasoline inland is induced by the police check-points that are ever-present across Tunisia’s interior regions.

Gasoline transporters are expected to pay a bribe at each roadblock. As gasoline traders report, the level of these bribes is usually relatively stable at one checkpoint over time but increases the further away from the border a checkpoint is positioned (T94, T95). It is unclear whether this is due to a conscious strategy, or the result of a changing position of power of law enforcement vis-à-vis local traders as the distance from the borderlands increases.

In effect, the checkpoints appear to account almost completely for the price differences in contraband gasoline in Southern Tunisia, as the price rises with distance from the border, but primarily with the number and size of checkpoints between the point of sale and the border. Contraband gasoline on the island of Djerba, for example, is significantly more expensive than in Medenine, even though Djerba is closer to the border geographically. In early 2017, I noticed that 20 litres of Libyan gasoline were on sale for around 10DT at a wholesaler in Ben Guerdane (T94), 13DT in Medenine, and a hefty 17DT in Djerba. According to transporters of contraband gasoline, the police at the large checkpoint at the entrance to the touristic island of Djerba usually take a bribe of 4 Tunisian Dinar per canister from transporters, hence driving up the price (T72).

As in Morocco, this combination of tolerating the sale of contraband gasoline while making its transport costly has led to the integration of contraband gasoline into the Tunisian economy in a geographically segmented fashion, with availability and price going up with distance from the border. In the Tunisian case, it is interesting to note that this geographic distribution has waxed and waned over the past years. While the tolerated sale of contraband gasoline was limited to the immediate border regions before 2011, informal roadside stations could be observed across the country in the years after the revolution, before receding again, reaching about as far as Gabes where a crackdown against roadside vendors in 2017 led to the confiscation of 24 thousand litres of contraband gasoline (TAP 2017). In this context, it is worth noting that enforcement operations against informal gas stations seemed to occur as the geographic remit of the phenomenon changed, especially as it contracted again after 2014, as a measure of controlling the territorial spread of the phenomenon, but not as a measure to reduce its prevalence within the territory where it was still tolerated.

In both cases, when revenue is extracted from the contraband gasoline trade, this occurs through security services - contrary to the city markets described above, there are no institutions that allow local municipalities to tax the sale of contraband gasoline. As a result, distributors and vendors of contraband gasoline do not benefit from the officialising processes described above in the case of the city markets. When asked why they haven't attempted to tax the gasoline trade, municipal officials have at times described these activities as 'more illegal' than some of the activities that they have managed to extract revenue from. A high official in the Oujda tax office, having just explained the mechanisms through which they tax illegal street vendors when asked about gasoline merely exclaimed: "we can't tax what is illegal" (M17).

The heterogeneous and less officialised treatment of the sale of gasoline at first appears surprising, as its economic dynamics are rooted in the subsidies of neighbouring countries, leading it to technically represent less of a challenge to the state resources of Tunisia and Morocco than smuggling that is more heavily driven by tariff evasion. There are a range of potential dynamics that this difference in the perception and treatment of these goods could point to. One is a feature of gasoline itself. As a flammable good, the sale of gasoline is not allowed everywhere: many rent contracts of vendors in city markets specifically prohibit flammable goods, and there are specific requirements that formal gasoline stations need to fulfil. However, it is worth noting that gasoline is not the only product which is subject to additional restrictions. The sale of food products, for example, is connected to additional regulatory requirements but can still be found in city markets.

Chapter 10 compares the experience of gasoline and textile smugglers more explicitly, focusing on the role of institutional histories and the relative power of different networks. If hybrid institutions are conceptualised as the interlinkage of formal and locally embedded informal institutions, local norms also appear as a potential explanation for the heterogeneity in regulation. Consequently, local moral perceptions stand at the heart of the next section.

6.3 Informality, Islam, and Legitimacy

The previous chapter and the above sections have mapped key institutions that regulate the smuggling of goods across the borders of Morocco and Tunisia and their

distribution within the borderlands. Before concluding the chapter, this section will briefly discuss how smuggling and its regulation are framed and evaluated by the borderland populations. There are three reasons why this discussion has significant conceptual importance. First, local belief systems and normative perceptions about criminality and justice, particularly if they are hegemonic, can present another form of informal regulation, normalising certain behaviours and making others more costly (Karstedt and Farrall 2006). Second, writing on hybrid governance has frequently assumed that informal regulatory arrangements are embedded in local belief systems, thereby enjoying local legitimacy even if they are formally illegal, and lending additional durability and efficiency to hybrid institutional structures (Kelsall 2011). As Meagher et al. (2014) have noted, however, this does not necessarily have to be the case and should be treated as an empirical question rather than an assumption. Third, analyses and discussions around smuggling in the region⁵⁸ have hypothesised a central role for systems of norms that present alternatives or challenges to the nation-state, either on the basis of tribe (Hüsken 2017; 2018; Reitano and Shaw 2014; Laroussi 2007) or Islamist imaginaries (International Crisis Group 2013).

The remainder of this chapter examines local normative perceptions of smuggling with by looking at local conceptions of licit and illicit goods, law-breaking, and the right to a livelihood. It does not aim to advance a singular and exhaustive place of smuggling in the moral perceptions of the region's borderlands - in the interviews conducted for this project, local perceptions and evaluations of smuggling and its regulation were diverse, differentiated, and conflicted. Two observations, however, are central for this project's discussions. First, while local perceptions of smuggling also differentiate between different smuggled goods and types of activities, they do not necessarily reflect one unified position on their respective appropriateness. And second, across the borderlands discussed here, smuggling and its regulation rest uneasily against local moral and religious evaluations, and are more commonly put in relation to a need to survive and a lack of alternatives than a right embedded in traditional practices or religious opposition. This provides an indication that the hybrid institutional arrangements described here are mainly functional hybrids and have not primarily developed out of an effort by states to adapt to local norms. I discuss Morocco and

⁵⁸ This holds particularly true for Libya.

Tunisia together, as perceptions in both case sites were remarkably similar, and will highlight differences whenever relevant.

Political and policy analyses of smuggling typically differentiate between licit and illicit goods.⁵⁹ In her seminal piece on smuggling in Southern Algeria, Scheele (2012) notes that local communities similarly separate their moral evaluation of smuggling based on the types of goods that are being transported, drawing upon the Islamic concepts of ‘halal’ (permitted) and ‘haram’ (forbidden). Similarly, this distinction is common in both Northern Morocco and Southern Tunisia. While this partly maps upon the distinction between licit and illicit goods, there are occasional differences, and the categorisation of goods as halal and haram is not universally agreed on. Alcohol, for example, not typically considered an illicit good in the wider literature on informal cross-border trade, is, by religious definition, ‘haram’. Class A narcotics are both illicit and generally agreed to be ‘haram’, with particularly synthetic psychotropics also increasingly standing at the heart of local moral anxiety around immorality and drug consumption by the local youth. However, at the same time, opinions diverge over the status of cannabis, the consumption of which has a rich and culturally embedded history in the region, particularly in Morocco. While cigarettes are usually considered ‘halal’, opinions appear to diverge over the status of firearms. Notably, though somewhat unsurprisingly, none of the conversations I’ve had framed gasoline as ‘haram’, or as a good that was morally different from non-hydrocarbon licit consumer goods such as textiles or kitchenware.

Apart from the classification of goods as ‘halal’ or ‘haram’, much of the diversity of moral evaluations of smuggling are driven by differing opinions on the issue of breaking the law, and particularly bribery. This is reflective of the legal pluralism surrounding informal trade, and diverse positions on the respective primacy of formal state laws, informal local practices and agreements, and religious rules and laws. Again, this argument is often framed in religious terms. The most common explanation given by those arguing that all smuggling is immoral was that bribery is haram, as all illegal actions are. “What is halal and haram is really clear”, one avid opponent of smuggling liked to tell me, “people just make it complicated because it helps them” (T88).

⁵⁹ See Chapter 2.

And yet many people did highlight some more complications to this approach. Some drew a moral distinction depending on how directly people were themselves involved in bribery. I met deeply religious men, who objected to much contemporary music and poetry on religious grounds, and considered the payment of bribes as forbidden, but were operating a wholesale gasoline business, arguing that it was not they themselves who were paying their bribes, but the transporters who supplied them (T94, T95). More commonly, however, disagreements around the permissibility of bribery revolved around the legitimacy of both the formal law and the state that issued it. If the state is not legitimate, if the law is not legitimate, this argument goes, then transgressing it is permitted. In the words of trader of smuggled shoes in Morocco:

Smuggling has nothing to do with religion. It's commerce, I am getting something, selling something, making profit out of it. It's trade, the prophet encouraged us to work in trade. (...) In the time of the prophet, they brought fabrics and spices from India, from other countries. All that is happening now is the same thing. In the prophet's time, the money, the tax, it was also not going to the government, it was zakat, that went to the poor people. Now it goes to the government, not the poor people, the government forces you to pay the tax, but doesn't do anything good with the money. I will tell you – I am against the government. (M77)

The same argument is often extended to the police that either tries to enforce the law, or asks for a bribe. Some traders argue that, religiously, the police should not be classified as a legitimate enforcement institution of just laws, but as *qaata'a tariq*, as highwaymen, bandits. As a consequence, bribery would then be religiously permitted. “Even the prophet was robbed by bandits they say, the police are not legal, and hence it is not haram to give money to bandits” (T110). This language of banditry, of an illegitimate, predatory state is common. It is often tied not merely to religious critiques of the Tunisian state and its security services, but also to an economic and political history of structural exploitation of the Moroccan North or the Tunisian South. “The police take their goods, so they have the right to attack them ... They sometimes make new laws, because they hate Ben Guerdane, they just take the goods,” argues one of the city's residents who is not himself a smuggler but currently working on a construction site (T110). “The Sahelians are doing robbery, they are not considering Ben Guerdane as part of Tunisia”, argues a local textile smuggler referencing the

Sahel, Tunisia's coastal regions from which much of the country's political elite has hailed (T70).

Local perceptions on the permissiveness of lawbreaking as a central part of smuggling appear to be complex and contested, but not random. Instead, they are closely connected to different views on who has the legitimate right to tax, to control, to ask for money. As demonstrated above, this, in turn, intersects not merely with religious convictions but also evaluations of state security services, accountability, and the history of centre-periphery relationships and the local economy.⁶⁰ Here, it is worth noting however that critique of the state or doubts of its legitimacy is not generally framed through reference to alternative normative orders such as tribal laws, traditions, or a failure to adhere to certain Islamist ideas of what states should look like. Instead, more common references are to state performance, accountability, and crucially: economics.

In fact, the economic dimension gives rise to the most dominant theme in these conversations around moral evaluations of smuggling. The notion of a right to work, a need to earn a living, and an absence of legal employment opportunities was ever-present across both case sites. It comes up again and again:

“Of course, people have a right to do this kind of commerce, because they have a right to live, and this is a universal right, and in order to live, you need to work. They are working, not robbing banks,” one Ben Guerdane resident told me (T65). “We don't want to work as informal traders with Libya, but there is no other option. I mean, I literally brought goods over under fire. I need to do anything to bring food on the table for my family,” argued a wholesale smuggler selling off the Route Ras Jedir (T68). “I have a right to smuggle, because if I don't, I will die of hunger. And I have a family, I have a daughter”, added a transporter working for a wholesale smuggler (T60). Some traders explicitly mention the absence of factories as a synonym for high unemployment, such as a textile smuggler in Oujda: “There are no factories here. If they close the door, honestly, people will kill each other. There is no other place to work. The only way to work here is this way” (M36).

⁶⁰ While there has been, among the people interviewed for this project, a notable diversity of these perspectives within informal trade networks, within groups of local state employees, and within social classes, it is possible that there are patterns along these lines. However, the data collected for this project is insufficient to demonstrate this.

In the words of one Medenine resident: “We do illegal things here, because there is nothing else. Because the government lets us. Actually, because the government forces us” (T75). The question of alternatives, too, relates more directly to a wider discussion in Islamic thought over criminality in the context of economic adversity and hunger (Christelow 1987). One Ben Guerdane resident recalls the story of Umar ibn Al-Khattab, the second caliph, and the thief:

Someone had captured a thief and beaten him. The caliph said to him, don't beat him, give him the money that he took, and give him a job, and food. If he still robs you then, cut off his hand. But now, he is in need of food and it is haram to punish him. Now, here, it is the same for the people. They should pay bribes – what else can they do? Especially when they have a family. It is only a real bribe if you have a choice. (T110)

This argument, of course, does not apply to all smugglers – not everyone who is smuggling is devoid of other options, not everyone is just making enough to get by. Staying with the theme of the need to make a living, local moral evaluations of smuggling commonly differentiate between the “little guys”, the “portadores” and “ants”, and the “big guys”, the “barons” and “bosses”, which are unlikely to fit the role of the thief in the story.

It is worth noting that the permissibility of smuggling is not just assumed to have consequences for the fate of smugglers in the afterlife. Many local residents, even among those who argue smuggling might be permissible, argue that the profit made from it has a different status than that made from honest work. There is a sense in some conversations that nothing good, nothing productive, will come from this money, and that the consumption patterns of many of the young smugglers, being viewed as immoral by much of the borderland community, are a direct result of the way this money has been earned. “People here will make good money, very good money. And then, when the border closes, in two days, it is all gone. They earn the money in a haram way, and they spend it in a haram way – on girls, or on alcohol,” one resident of Ben Guerdane, who himself quit smuggling some years ago, argues (T104). “This is not honest work, so God will not make Baraka with that”, a vendor in Oujda’s Souk Melilla references a concept (blessing) commonly employed in this context, “I may make money, but it may affect someone I marry, or it might affect my son, it might

give him an illness, or a drug addiction, I may be rich but I will lack inner peace” (M39). It is not clear, however, that these beliefs have strong regulatory effects on smuggling networks so far – there are no indications that even smugglers involved in the drug trade are socially ostracised, or that they find themselves in a tricky position on the marriage market. They are likely to affect personal choices in activities – but, as emphasised above, the available choices are often perceived as limited.

An illustrative case study for the normative framing of smuggling can be found in the ‘memorandum of understanding’ that outlined the agreement on the border procedure at the Ras Jedir border crossing in early 2017. As mentioned in the previous chapter, the document that was negotiated between local political, military and civil society actors on both sides of the border represents one of the few written versions of an otherwise largely unwritten agreement. It is interesting to note that the text of the agreement itself is very cautious about its legitimacy, stating that it “puts forward exceptional solutions to some of the problems that are faced by travellers and trade movements on all sides, without entrance of the official side of any party in the commitments or measures contrary to the law or international agreements ... without proceeding to hurt the national sovereignty of both countries.”⁶¹ Its authors are careful to point out that the process by which this has been agreed upon, without the official sanction of the Tunisian state, is not ideal, but situate it in what approximates a ‘state of exception’ (Agamben 2005), noting the particular political circumstances in both countries. While one of its authors argues that the fact that they are the ones who negotiated the agreement with municipalities in Libya, a feat that the formal diplomatic channels were not able to achieve, does give them certain rights to determine the procedures (T96), another argues that “for the accord to gain legitimacy, we need the state” (T57). There is, then, even among the authors of the agreement, no clear agreement on the legitimising role that only the state can or should play in this context.⁶² While the agreement references the historical relationship between the two

⁶¹ See Appendix 2.

⁶² To my knowledge, there have not been any official communications from the respective organs of the Tunisian state on the agreement. In an interview with the author, when asked about the issue, a local member of parliament that was not himself involved in the negotiation of the agreement criticised it harshly, highlighting that it was inappropriate for non-state entities to conduct these kinds of negotiations (T101). The relevant minister (of trade and industry), when asked about the agreement, similarly highlighted that these types of agreements should not be negotiated outside of the institutions of the state, but also highlighted the difficulty of the political context in Libya, and the importance of civil society initiative (T120).

countries in its preamble, which is described as “eternal” and “inherited from our ancestors”, as well as the nations’ shared “religion, race and language”, it does not draw on this as a source of legitimacy or specific normative order that explicitly trumps or challenges that of the state.⁶³

Naturally, the perspective of the authors of the agreement is not necessarily the same as that of most of the traders operating under it. When talking to local smugglers about the agreement, its evaluation was rarely connected to its relationship with the state or the formal legal system. Instead, many noted that the agreement was preferable to the situation before, but still only positive in the context of a lack of alternatives. “Obligée”, one large-scale wholesale smuggler told me (T97) – “we are obliged to work with this, what else is there?” “It’s okay...but it’s a galley” said another (T95). “It’s only good because there is no alternative,” said a third, before voicing a common complaint about the agreement: “Is it good to pay money, and to get nothing in exchange? No” (T98). Many traders don’t argue with the principle of having to pay money at the border crossing in some form or another. Many for example praise the conditions at the Southern border crossing of Dhiba. A similar – albeit slightly more expensive – agreement exists there, however, the border guards there are described as “clean people” (T97), and “regulated” (T66).

As in the discussions of informal regulation more widely, references to livelihoods and social justice also frequently came up in evaluations of the agreement, referencing the lack of alternatives for many traders. Some traders expressed concern about the fact that the Ras Jedir agreement specifies a unit price rather than a percentage price, hence benefitting those who import larger quantities. Similarly, there is an acute awareness that some of the very large players may have options to trade outside of the agreement: “There is always an option for the big ones, and an option for the small ones, and for the small ones it is always bad. The poor ones always suffer”, a gasoline trader from Ben Guerdane noted (T95). As discussed above, there are some general disagreements on the legitimacy of security forces extracting resources from the trade at all.

Once more, discussions of livelihoods also closely connect with the issue of indignity, and notions of decent work. Every smuggler in Tunisia has a story of mistreatment by

⁶³ See Appendix 2.

Libyan customs officials, or militias manning checkpoints along the way, stories of verbal and physical abuse, humiliation. “They do things beyond the laws of humanity,” on Tunisian trader complains about a militia manning checkpoints in Libya (T66). This theme echoes across the different cases studied here. Despite the regularity of much of the trade, there is still a significant element of violence and indiscriminate harassment experienced by traders, introducing an element of physical and financial insecurity fundamentally at odds with how people locally imagine decent work, or more widely, ‘karama’ – dignity.

This section has noted a diversity in the moral evaluations of smuggling in the borderlands, structured around evaluations of goods, of the permissibility of breaking the law, and the lack of alternatives or right to livelihoods. At least based on the conversations that this project draws on, moral evaluations of smuggling in the borderlands do not appear to only fall on a “religious” versus “less religious” scale, but on a multi-dimensional spectrum as people navigate the complex terrains between formal state laws, informal arrangements, religious laws and moral perceptions.

Both the uneasy position of much of the smuggling economy in local moral perceptions and the terms on which they are typically justified do not support the idea that smuggling or the institutions that regulate it are deeply embedded in local norms or necessarily seen as legitimate, even by those participating in them. Local traditions of trade, tribal identities, pan-Islamic or jihadi identities are rarely evoked in these discussions, which more commonly frame smuggling as a way of making do in the absence of alternatives. Here, religion is primarily pointed to as a moral system that permits or doesn’t permit certain acts or types of smuggling, but not as one that demands it, perhaps to avoid or subvert an insufficiently religious state.

In these conversations, smuggling is generally not framed as an act of rebellion, resistance or political subversion against the state. There is an awareness of confrontation with the state as a feature of smuggling, for example in the descriptions of the gasoline transporters in Morocco as ‘muqatila’ (fighter), and some of the frustrations with the role of state security services as bandits. As discussed above, however, this confrontation is being directly connected to narratives of being forced to smuggle due to a lack of alternatives, and hence to state neglect rather than subversion.

Consequentially, this suggests that where hybrid institutions exist in this context, they should be conceptualised primarily as functional hybrids. While they contain combinations of formal and informal institutions, this section strongly suggests that the informal institutions that these hybrids connect to (as well as the informal institutions that regulate smuggling at the border) are not primarily a feature or construction of local norms.⁶⁴ Local normative systems are grappling and engaging with smuggling, influencing choices and perceptions, but they do not present themselves, at least discursively, as its primary driver. The regulation of smuggling, therefore, cannot be conceptualised as states engaging in institutional compromises with bottom-up local traditions of smuggling in a more traditional image of ‘hybrid governance’. Instead, the concepts that anchor local perceptions of smuggling point less towards local norms and more towards a reaction and coping with the uneven economic geographies and political power structures created by the region’s states themselves.

6.4 Conclusion

This chapter has reviewed the institutionalised structures that regulate the sale of licit smuggled goods in Morocco and Tunisia, as well as some of the central themes in the relationship between smuggling and local moral and religious beliefs. Together with the previous chapter, it has once again emphasised that smuggling in North Africa is neither unregulated nor typically occurring ‘under the radar’ of the state. Instead, it is closely embedded in a range of informal and hybrid institutions, which segment the trade depending on different categories of goods, influence its costs and access and allow various actors to extract revenue. Not only does this frequently rely on the official or unofficial toleration or even active participation by state agents, but also has created points of contact and negotiation between state organs and traders.

In tracing these institutions, these chapters have provided the first step towards a political economy analysis of smuggling and state-building in North Africa. They have

⁶⁴ Purely functionally, one could argue that the traditional institution of the rotating market represents an exception to this. While it has a long local history and tradition and has been clearly hybridised with state institutional structures in the creation of the modern city markets, conversations with local traders did not exclude these markets from the wider unease about the smuggling economies they are embedded in or referenced them as a normatively embedded local institution.

highlighted that the existing regulatory structures around smuggling suggest a less simplistically adversarial relationship between state structures and smuggling networks than is frequently assumed. Instead, they have pointed towards some of the central mechanisms through which smuggling is controlled and through which rents are generated and distributed, and towards some of the actors involved. As a result, novel questions have emerged.

If the informal institutions in these structures are not driven by local norms or traditions, what are they driven by? Why do state institutions tolerate and engage in these institutions, at times even without taking any bribes? Why do borderland populations accept them, given their rather contested position in local religious and moral understandings? What drives the way in which these institutions segment between different goods? How are these institutions maintained and negotiated, and which actors can influence and benefit from this process? And finally, how should they be understood in the context of state-building? The next chapter will begin to address these points by focusing on the rents generated through smuggling and its regulation.

Chapter 7: Smuggling Rents and Political Settlements

“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.”

Senior Municipal Bureaucrat, Ben Guerdane, 2017 (T112)

7.1 Introduction

Building on the previous two chapters’ analysis of the regulation of smuggling in North Africa, this chapter seeks to understand the actors, interests and incentives behind it. In order to do this, it traces the rent streams that are generated through North Africa’s smuggling economies and the institutions that regulate them, alongside the groups among which they are allocated. This allows this chapter to speak to both questions raised in previous chapters and this dissertation’s wider interest in the relationship between smuggling and state-building.

The previous two chapters have noted the central role of state agents in the regulation of smuggling. At the same time, the systematic nature of their involvement complicates simplistic images of individual corrupt members of security services as primary causes of the region’s smuggling economies. Notably, these chapters have even pointed to interactions between smuggling and state agents in which illegal activities are tolerated but no bribes are paid at all, such as in the case of roadside gasoline stations or small-scale smugglers operating on the Algerian border. This begs the question of why state agents are participating – systematically – in the regulation of smuggling. The same can be asked of borderland populations, as the previous chapter has argued that local popular norms are unlikely to have been key drivers behind the regulatory structures that surround the region’s smuggling economies. Both point to a deeper question of what or who drives and structures smuggling in North Africa? From local officials to security agents, well-connected smugglers to interests within the central state, an analysis of the rent streams allows this chapter to probe some of the most prominent hypotheses.

Placing its analysis of rents in a political settlement framework furthermore allows this chapter to relate it to the project’s wider questions on the relationship between

smuggling and state-building. As discussed in Chapter 2, political settlement approaches analyse stability and institutional performance as dependent on the congruence of (formal and informal) institutional structures, the distribution of resources, and the distribution of power (M. Khan 2010; Putzel and Di John 2009). Informal institutions, even if they are in direct contradiction to formal institutions, do not necessarily undermine stability if they support the reallocating rents in a way that brings the overall distribution of resources in line with the balance of power (M. Khan 2010). Rather than evaluating any systematic breaking or subversion of the formal law as a subversion of the state, an analysis of a clientelist political settlement examines whether the rent-streams are supporting the wider political settlement and what kind of settlement it is. Asking how rents from North Africa's smuggling economies and its regulation are distributed thereby directly leads to the central questions of the project: is the presence of large, regulated smuggling economies undermining the state or contributing to alternative forms of state-building?

The remainder of this chapter consists of three sections. The first discusses the different rent streams that are directed towards different state actors, differentiating between security services, and municipalities. The second discusses the rent streams that have been directed towards non-state actors, differentiating between elite networks and the broader borderland population. The final section relates these rent streams to the chapter's wider theoretical questions and concludes that a political settlement reading does not support the common claim that smuggling 'undermines' states in North Africa. It argues that, through its provision of income to borderland populations bereft of meaningful formal development, smuggling economies have been essential to maintaining the congruence between the balance of power and the distribution of resources between the political centre and the periphery, thereby acting as a stabilising element not just for the ruling regimes, but also for the formal institutional structure and the distribution of formal rent streams.

As mentioned before, rent streams and political settlements shift and transform. Whenever possible, I sketch a temporal context for the rent streams I am describing, drawing on the most recent data in the cases where the respective networks are still active. This chapter discusses both case studies together, drawing on variation whenever relevant and illustrative.

7.2 Rents to State Actors

Speaking of rent streams to state actors involves multiple conceptual difficulties. First, the state does not always present itself as a unitary actor. Different organs – the police force, municipalities, ministries – might play occasionally contradictory roles, which this section aims to address by discussing them separately. Second, there is a notable difference between state actors as individuals and as members of a state body. In the case of ‘classical’ corruption, rent streams are directed to the private accounts of individuals, linked to their position within a state structure. Here, the rent is not collected by the state agency, but by the agent. However, if corruption is systemic, this becomes more difficult to separate. If interior ministries are able to pay very low salaries to policemen because there is an expectation that they will be able to top up these salaries through bribes, the agency is involved more directly.⁶⁵

This section argues that while some rent income is directed towards individuals working for the state and mirrors more individual corruption, rent income from the illegal trade of licit goods is generally highly systematic and needs to be conceptualised by examining structures and organs of the state, rather than individual agents. It notes that varying interests and jurisdictions of different state organs with respect to smuggling have allowed a segmentation of responsibilities that has facilitated the creation of spaces of toleration and hybridity. Crucially, this section argues that while state agents do benefit financially from the trade, they balance rent extraction with other considerations, and particularly the maintenance of stability and social peace in the borderlands.

7.2.1 Security Services

Defying the caricatured conceptions of Tunisia’s and Morocco’s borderlands as lawless spaces, members of state security services – police, military, national guard and customs – are highly visible and present in both. For some, being assigned to the border areas can be a highly lucrative position – there are stories of officers throwing a party once they found out they were assigned to Ben Guerdane (T42).⁶⁶ However, in

⁶⁵ For a more extensive discussion, see Prud’homme (1992).

⁶⁶ It is worth noting that this story refers to the pre-2011 era. As the following chapter will discuss, the relationship between the police and the local population has become increasingly strained.

both the ability to extract rents and their regulatory roles, there are also differences between different security services and between the case studies.

In both countries, police forces usually extract rent through the setting up of checkpoints along common routes on which smuggled goods are transported, eliciting a bribe for their passing. This is not limited to the police but also includes the (Tunisian) National Guard and customs agents, although police checkpoints appear to dominate.⁶⁷ This has led to a mushrooming of road checkpoints in the borderlands. In 2017, 4 different checkpoints could be observed on the road between Ben Guerdane and Ras Jedir, with a fifth just outside Ben Guerdane on the road to Zarzis. A Moroccan smuggler claimed to have counted even more on the small strip between Sidi Yahia and the Algerian border when the trade was booming in the early 2000s (M77). In Oujda, a formal entrepreneur complained that moving legally produced goods to Rabat was hugely difficult because police and customs officers along the road had begun to assume that all goods that were coming in from the North-East were contraband (M106).

Locals generally consider the purpose of these checkpoints to be the extraction of rent from the smuggling trade. "They are not here for security, they just check your papers and ask for money", one resident of the Tunisian borderlands remarked, "it's a good place for them to work" (T86). The rents here are highly significant. A transporter moving contraband gasoline from Ben Guerdane to Djerba in early 2017, for example, would buy 20 litres of Libyan gasoline from a local wholesaler for around 10,5 Dinar, being able to sell it in Djerba for about 17 Dinar. As noted in the previous chapter, of the 6,5 Dinar profit, approximately 4 Dinar would have to be paid to the police checkpoint at the entrance to Djerba – almost a quarter of the final retail price, and a percentage that increases with the distance from the border, as transporters have to pass additional checkpoints.

Outside of checkpoints, there are occasional reports of policemen collecting sporadic bribes from roadside gasoline stations, especially in Morocco, but many vendors report not having to pay any bribes to the police. Generally, police forces appear to be careful and restrained in eliciting bribes from illegal survivalist activities. "The police

⁶⁷ In Ben Guerdane, the police and the national guard appear to have divided up the territory, where the police control the city centre, while the national guard controls the outskirts and space between the city and the military zone south of the border crossing.

tell you: when you have something to work, work, but don't make any trouble" a former Moroccan drugs smuggler interprets this for me, "for the police, the most important thing is stability. They want no killings, no trouble, no violence" (M40).

Across both case studies, this is typically interpreted as officers balancing rent extraction with an interest in maintaining the social peace in the borderlands – which includes limiting their own exposure to a potential violent uprising, or retaliation. This sentiment is echoed by some of the other state actors in the borderlands when discussing their cooperation with local police forces. "Our goal is to fight contraband, the goal of the police is only security", a high official in the Moroccan customs complains (M63). Municipal officials in Tunisia complain that the police prioritises stability over law enforcement, and is unhelpful in supporting formalisation activities (T26), or actively sabotages them (T84). In the words of a high-level bureaucrat in Ben Guerdane: "The police however only want things to stay quiet and stable, they don't care about the law" (T64).

The role and importance of the military differ somewhat between Tunisia and Morocco. In Morocco, the military has played a crucial role in securing the country's closed land border with Algeria. As discussed in Chapter 5, Moroccan soldiers and their Algerian counterparts played a key role as coordinators, mediators and screeners both at the regular meeting points for gasoline smugglers and at the "gates" across the border. The rent extracted here is highly significant: while Moroccan soldiers largely stopped taking bribes from small-scale traders in 2010, they still collected bribes from large-scale traders, or traders operating in higher-value goods such as cigarettes. Gasoline smugglers report that the standard bribe per canister of contraband gasoline was 5Dh – a single wholesale trader would often move hundreds of canisters in a given night (M7). Similarly, transporting smuggled cigarettes through one of the 'gates' manned with 4 soldiers could cost a smuggler up to 800Dh in total (M35).

Corresponding to the generally more marginal role of the military in Tunisian politics and security, which is traditionally dominated by the Ministry of Interior, Tunisian soldiers have traditionally played a comparatively marginal role in Tunisian border security (Hanlon and Herbert 2015). However, in recent years, and especially since the establishment of a militarised zone in Southern Tunisia in 2013, their role has expanded. The trade that occurs through the territory controlled by the military is

limited to those traders that have chosen to circumvent the smuggling structures through the border crossings. Based on the reports of smugglers operating in this area, their interaction with the military does not appear to be that different from their interaction with customs agents – they try to evade them whenever possible but are typically able to bribe to them when they get caught (T72).

In both Tunisia and Morocco, customs agents are amongst the most visible and active security force to interact with smuggling networks. In Tunisia, they are typically involved in the misregistering of goods smuggled into the country and demand a fee from smugglers, generally in accordance with locally negotiated agreements as discussed in the chapter above. A smuggler importing 10000 Tunisian Dinar worth of goods in early 2017 would pay 300 Tunisian Dinar, approximately 3% of the good's total value.⁶⁸ Of the money collected from the smugglers, some of it is officially logged and hence directed towards the state's tariff income, while the rest is distributed amongst the customs agents' privately. The distribution of this rent between state coffers and the customs agents seems to have fluctuated with the different agreements that have been in force at the border crossing.

Particularly through their influence on which kinds of goods can be imported informally through the general agreement and which goods require additional payments or a particular relationship, custom officers are commonly situated directly between local smugglers and the interests of the central government or the formal business community. In this role, similar to police officers, there are references to customs officers not just extracting rents, but also considering social stability in the borderlands. Indications of this come from a researcher who has run workshops with customs officers, describing their role as a “balancing act” (T73), and from smugglers themselves, with one large-scale wholesale smuggler from Ben Guerdane noting: “The customs are okay with all this, because they only want that it's calm” (T97).⁶⁹

In Morocco, too, most bribes paid by smugglers operating through border crossings – primarily around the enclaves of Melilla and Ceuta – are collected by customs agents. While the exact amount is dependent on the value of goods and the interlocutor, as discussed in Chapter 5, the resulting amounts can be significant. A fabric trader

⁶⁸ See Chapter 5.

⁶⁹ Cantens and Raballand (2017) make a similar observation.

operating out of Oujda's Souk Melilla, for example, reported that if he was smuggling 1000 Euros worth of fabrics, he would typically pay a bribe of between 500 and 800 Moroccan Dirham, so between 4 and 7 percent of the total value (M76). Although this may vary by goods, given that Castro & Alonso (2014) estimate that 332 Million Euro worth of licit goods were smuggled from Melilla to Morocco in 2007, this suggests that the overall size of rents collected by customs officers is substantial. Contrary to the Tunisian case, Moroccan customs officers do not appear to use road checkpoints as opportunities to generate rents. Customs officers regularly check cars along the roads for contraband, both hailing from Melilla and Algeria. However, here, full legal fines and confiscations appear to be more common than bribery (M7, M101).

Like all the security forces discussed in this section, Morocco's customs officers also appear to balance their rent-extraction activities with a concern about local stability and social pressure in the borderlands. At roughly the same time at which Moroccan soldiers stopped taking bribes from small-scale smugglers operating across the border with Algeria, Moroccan customs officials appear to have stopped taking bribes from the small-scale independent smugglers operating through the Beni Ensar crossing with Melilla. A high official within the regional customs office confirmed that there was an effort to take some pressure off the "contraband viviere" due to its role in the local social fabric and the lack of alternative employment opportunities (M63).

This section has largely focused on rent streams generated through institutionalised arrangements. From a rentier perspective, it is worth noting that the existence of clearly communicated arrangements and standardised bribes is likely even a profit-maximising strategy for customs officers. On the borders studied here where smuggling occurs through ports of entry, smuggled volumes are often huge but typically transported in small units. Individual negotiations about bribe levels would hence slow down the trade, and limit the number of traders from which bribes can be extracted. At the same time, the limitation of these agreements to certain goods opens up opportunities for further – negotiated – illicit arrangements, 'off the menu', so to say, for traders that can pay more.

It is worth noting that for perhaps all security forces discussed here, some rents also likely flow through corrupt arrangements that are individually negotiated outside of these institutions. While these are less systematic, some of these may explicitly build

on political connections. In Tunisia, the extended family of former President Ben Ali, as well as his wife Leila Trabelsi, made a significant effort to insert themselves into the smuggling networks with Libya in the early 2000s (Kartas 2013). Here, their connection to customs officials appears to have been crucial, as goods owned by the Trabelsis or their local collaborators would be waved through without control, fee or question. It is, however, unclear how beneficial this arrangement was for local customs officers, and if it included a more centralised and direct rent-stream through side-payments by the Trabelsis. While the Trabelsi family has largely disappeared from Tunis with the 2011 revolution, networks of beneficial access, including some with connections high within the Tunisian state, are repeatedly mentioned by smugglers, politicians and civil society actors (T102, T22, T68).

7.2.2 Municipalities

Apart from the security services, local municipalities are a central actor capitalising on rent streams from the smuggling economy. As Chapter 6 discussed, municipalities in both Morocco and Tunisia have managed to tax the distribution chains of smuggling networks trading in licit goods. As this section demonstrates, rents derived from taxing informal rent streams are a significant part of the municipal income in both Oujda and Ben Guerdane, giving municipalities a strong incentive to tolerate and organise the distribution networks of local smuggling economies. As an expanding literature on taxation and informality has highlighted, this is not an unconventional relationship between local state authorities and informal economies (Meagher 2018b; Carroll 2011; Joshi, Prichard, and Heady 2013).

As in the case of the security services, there are also indications that municipalities balance rent incomes with an interest in maintaining social stability. At the same time, their rent extraction differs from that of the security services in notable ways. First, while security services extract rents at points where traders were moving, such as border crossings and road checkpoints, municipalities extract rents at points where traders are stationary, such as markets and roadside stalls. Second, the rent stream from informal cross-border trade to the municipalities examined here appears almost exclusively directed towards the municipalities as organisations rather than to the

personal income of individual municipal agents.⁷⁰ Third, the strategies of municipalities need to be understood in the context of a traditionally weak actor within the national political structures of Tunisia and Morocco.

In Ben Guerdane, the ‘Souk Maghrebi’ stands at the centre of the municipality’s income generation. Prior to 2011,⁷¹ the municipality both received payments from the vendors for each stall, as well as fees from the receipts that they sold in order to allow customers an easier passage through the police checkpoints on the road. In 2010 for example, the municipality made 215 000 Tunisian Dinar off the market, 104 000 from the stalls and 111 000 from the fees. The year before, they had made 347 000 Tunisian Dinar off the market, 172 000 from the stalls and 175 000 from fees.⁷² While this may not immediately sound like a lot, it represented respectively 11.3% and 17.9% of the entire municipal budget.⁷³ It is worth noting that both 2009 and 2010 were not particularly good years for the market - a municipal official remembered that in the early 1990s, the municipal income from the market was as high as 1,05 Million Tunisian Dinar, making up 60% of the municipal budget (T84).

While the ‘Souk Maghrebi’ represents the largest portion of the municipality’s income from the smuggling trade, it also collected fees from other informal traders throughout the city, typically for the use of public space. In conversations with municipal bureaucrats, they are very clear and explicit about the fact that the municipality is dependent on directly taxing smuggling networks. When the events following the 2011 revolution threw the municipality’s ability to tax the vendors in the market in question (see Chapter 8), one of the alternatives discussed internally was, in fact, to start taxing the cars at the border crossing directly – to essentially set up their own checkpoint (T39).

In Oujda, too, rent streams from the smuggling economy primarily reached the budget of the municipality⁷⁴ through tax and rent income from the markets in which most of

⁷⁰ Naturally, this is subject to exceptions.

⁷¹ The post-2011 phase will be discussed in Chapter 8.

⁷² These numbers were attained through the municipality of Ben Guerdane in September 2014. The income from the stalls has been triangulated using the number of stalls and the individual stall fees, as reported by multiple sources.

⁷³ Calculation by the author, based on budget data obtained from the Municipality on Ben Guerdane.

⁷⁴ Technically, Oujda has 11 ‘communes’, three are urban and 8 are rural. This section refers to the largest urban commune.

these goods were sold, most notably the Souk Melilla and the Souk Tanger, alongside the fees it collects from roadside vendors.⁷⁵ The vendors in the Souk Melilla pay a monthly fee of 200 Dirham to the municipality, adding up to a total yearly income of 2,6 Million Dirham⁷⁶. Vendors in the Souk Tanger pay a yearly fee of 504 Dirham, adding up to a total yearly income for the municipality of over 268 000 Dirham. The revision in 2008 of the law that allowed the municipality to directly collect fees from roadside vendors closed another significant rent stream, representing, in the name of a senior municipal official, “an important loss for the municipality” (M17).

While these rent streams are highly significant for the municipal budgets of both Ben Guerdane and Oujda, the extent of the fees extracted from the vendors and conversations with a wide variety of municipal bureaucrats in both localities suggest that maximising income is not the only consideration in how municipalities extract rents from smuggling networks. The stall fees that the municipality of Oujda and Ben Guerdane are charging are relatively small – when owners sublet the stalls to other vendors, the fees they charge, reflecting the market value of the property, are typically substantially higher.⁷⁷

Municipal bureaucrats with a variety of different ranks and responsibilities in both cities highlighted in interviews that their extraction of taxes and fees from the smuggling networks needs to be carefully balanced against concerns about social stability. A high official in Oujda’s tax office highlighted the “security aspect” they needed to consider when deciding how and when to enforce the tax code, concluding: “this absorbs the rage and the unemployment... we are buying social peace” (M17). In the words of one of his colleagues in the regional tax administration: “We cannot make these things disappear, and we cannot fight against them. The goal of the state

⁷⁵ Other important municipal markets play a smaller role, as the Souk Fellah is largely untaxed by the municipality, and the Souk Quds is now largely selling legally imported products. In the last few years an increasing amount of vendors are selling goods that are imported legally, however the driving force behind the markets for the past decades has been the smuggling economy (see Chapter 9).

⁷⁶ Calculation by the author based on data provided by the market association (M48, M49) and triangulated with multiple vendors. Some additional income may be generated through a wider range of taxes and fees, however a precise calculation is difficult as the vast majority of vendors do not pay those.

⁷⁷ Strictly speaking, this has created another rent stream – vendors who were part of the original allotments were able to generate additional income by renting out their stalls at a higher rate. In both Ben Guerdane and Oujda there are indications that personal and family connections have played a role in the original allotment, suggesting that there may be a small elite-focused rent stream here. This issue will be discussed in subsequent chapters.

is to stabilise, with our capacities” (M61). The mayor of Oujda highlighted a similar point when I spoke to him: “We are afraid of the vendors, because there are things happening now, like with the Arab Spring, and you have to remember we are in a border region here. We have to build something here, or there will be trouble. So instead of forbidding it, we have tried to organise it a little bit” (M60). In the words of a former high-level bureaucrat from Nador: “This is how this region lives. We tolerate this because there is also a social side to this. There are always protests, but there is a social side. Even the state cannot go against it. There is a security and a humanitarian side to this. This is a bomb that we cannot touch” (M47). Their colleagues in Tunisia echoed a similar sentiment. Notably, the municipality of Ben Guerdane continued to support the market’s cleaning and sanitation even once it became unable to extract any income from the Souk Maghrebi after 2011, as Chapter 8 will discuss.

It is important to highlight here that within the state structures of Tunisia and Morocco, both pre- and post-2011, municipalities are relatively weak political actors. Despite recent decentralisation programmes in both countries, Morocco and Tunisia have maintained centralised political systems (Salman 2017; Hoffmann 2015; 2013). Even in the context of engaging with the local smuggling economy, both the municipality of Oujda and the municipality of Ben Guerdane can be observed to have repeatedly been side-lined. The process through which multiple agreements for the procedure at the Ras Jedir border crossing were negotiated included Libyan municipalities as well as multiple actors from the Tunisian state and civil society, but not the municipality of Ben Guerdane. Negotiators of the agreement generally referred to the municipality as “only administrative” (T57), and irrelevant (T68). While before the 2011 revolution the municipality was strongly perceived as a vehicle through which the ruling party exerted power, it has been left without a clear political mandate and executive power in the years following 2011. Municipal bureaucrats complain about endless delays as they have to run projects past Tunis. One municipal bureaucrat even went as far as claiming: “We are not the state, we are the municipality! The state is different. That’s the central state” (T64). It seems that when they attempted to take over Ben Guerdane in 2016, Islamic State fighters agreed with that assessment: while they attacked the office of the ‘Delegation’, the local representation of the central state apparatus, they did not attack the municipality just across the street.

The dynamic in Oujda is similar – the budgets of Morocco’s municipalities is relatively small, and generally deals with the day-to-day management of communal activities, leaving little room for investment or larger projects. Investment typically comes from ‘above’ – from the regional level, or development agencies like the Agence Oriental, which are closely tied to the political centre⁷⁸. While the municipality plays an important role in the day-to-day management of the Souk Melilla, or Souk Tanger, the creation of these markets involved more direct investments from the regional level. When talking to influential smugglers, the municipality very rarely comes up as a crucial interlocutor with the state. Instead, the local representatives of Morocco’s centralised executive – the *qā'id*, and most importantly the *walī* – are the more active players here.

It follows that while rent streams from the smuggling economy to the municipalities in the borderlands of Tunisia and Morocco are of clear significance to municipal budgets, it is unlikely that the central features of state policy towards smuggling economies are formulated at a municipal level, or that the widespread toleration of smuggling in the borderlands of Tunisia and Morocco can be explained primarily through the contribution they make to municipal budgets. Instead, the instruments developed by local municipalities in order to organise and tax local smuggling networks are better conceptualised as adaptation strategies of a weak but locally embedded state actor. These, in turn, are tolerated by the central states in the context of its wider engagement with the smuggling economy, and provide an informal replacement to more state funding for local governance.

7.2.3 Other States

This chapter focuses on the rent streams created and distributed in Tunisia and Morocco, and the two countries’ political settlements. Still, in order to conclude the discussion of rents distributed to state actors, some mention should be made of the rent streams that are accrued by state actors foreign to those two countries. In order to remain concise, I will very briefly review the key foreign state actors who benefit from

⁷⁸ The perhaps most drastic illustration of this is that the ‘Agence Oriental’, an agency created by the Moroccan state in order to fund and co-ordinate development projects in the Oriental region, did not even have their headquarters located in the Oriental region for the first years of their existence. Between 2006 and 2014 it was located in Rabat, before moving to Oujda. See also Hoffmann (2013).

this trade, while primarily asking whether or not these actors would be able to exert such a significant influence within the Moroccan or Tunisian state that they may provide an alternative explanation for the toleration and regulation of smuggling in these states.

The small Spanish enclave of Melilla is in many respects a large profiteer of the smuggling economy across its border with Morocco. While the traffic at its border crossings is a nuisance in terms of clogging up roads, it is largely cordoned off from the rest of the city. While there are no indications that Spanish security forces taking systematic bribes from the trade in licit goods, the introduction of very frequent rotations of the police stationed in Melilla gives some support to suggestions that particular individuals in the security services may have been implicated in the trade in illicit goods (ML3).

More importantly, there are multiple channels through which the city administration of Melilla directly benefits financially from the smuggling economy, mirroring what Igue and Soule in their analysis of Benin termed the “entrepot state” (1992). First, while Melilla is a free port, the city still collects a small tax from the goods imported through its port, the IPSIE. If, as Castro and Alonso (2014) estimate, approximately half of the goods imported to Melilla are directed towards the smuggling economy, this suggests that it is responsible for a significant amount of Melilla’s IPSIE income, in addition to the tax paid by the wholesalers and warehouse owners in Melilla, the tax paid by the supermarkets and stores through which some of the smaller traders supply themselves, and the tax paid by the various business activities through which money made in the illicit trade is recycled in Melilla.

However, it is questionable how important these incomes are for the administration of Melilla. Due to its strategic importance for Spain, Melilla is largely supported through fiscal transfers from the mainland, which would likely make up for any budget shortfall created through decreases in IPSIE income (ML5). The income generated by the IPSIE does not appear to be a priority for Melilla’s administration – Spanish customs officials pointed to the fact that very little effort is made to adequately control, calculate and enforce IPSIE payments in the port of Melilla, and that under- and misreporting of imports are rampant (ML4).

More importantly for the subject of this chapter, there are no indications that the administration of Melilla, or individuals within it, are in a position to strongly influence the Moroccan government in its position on the smuggling economy. On the contrary, recent development projects in northern Morocco, such as a new port project have positioned Morocco more as a commercial rival to Mellila – suggesting that Morocco’s policy towards these networks cannot primarily be explained through the division of rent streams within Melilla.

The division of the rent streams from the smuggling economy in Algeria is at least as complex as that in Tunisia and Morocco, and its full discussion goes beyond the scope and purpose of this thesis. While the role of Algeria will be discussed again in the following chapters, in order to account for it as a potential explanation for Morocco’s policy towards its smuggling economy, it is important to highlight a few key elements of this dynamic.

As discussed in Chapter 5, elements of the Algerian security services have been benefitting directly from the smuggling economy.⁷⁹ At the same time, the smuggling economy has presented a significant drain on Algeria’s resources once state subsidies, especially on gasoline, became one of the principal drivers of the trade. Much of the crackdown on the smuggling economy from the Algerian side in the past decade, and its increase in security infrastructure along the Moroccan-Algerian border, can be interpreted in this context.⁸⁰ At the same time, the smuggling economy also created economic opportunities for the populations of Algeria’s borderlands – a fact that the state administration seems to have been aware of. During the run-up to the legislative elections in May 2017 in Algeria, a slight relaxation of the crackdown on smuggling along the Algerian-Moroccan border could be observed, likely reflecting an attempt by Algerian authorities to temporarily improve economic conditions in their borderlands.

The developments along the Moroccan-Algerian land border have largely mirrored the tense political relationships between the two countries more generally, signified most visibly by the 1994 closure of the of land border. While the cooperation between

⁷⁹ While this section focuses on the smuggling of licit goods, in keeping with the focus of this chapter, a series of high-profile scandals in recent years have focused increasing attention on the cocaine trade in Algeria. See Herbert (2018).

⁸⁰ See Boukhars (2019)

Moroccan and Algerian soldiers has clearly played a role in the regulation of the smuggling economy along this border, it appears highly unlikely that the explanation for the wider Moroccan policy towards smuggling can be found in the distribution of rent-streams from the smuggling economy within Algeria.

The most complex case in the distribution of foreign rent streams is perhaps Libya. Under the Gadhafi regime, the toleration of certain illegal economic activities, including human trafficking and the smuggling of contraband goods was widespread and connected to the regime's political objectives – key positions in the country's illegal trade networks were given as rewards to individuals or groups loyal to the regime.⁸¹ While Libya was under sanctions, smuggling networks provided the country with sparse goods, while also creating mechanisms for the convertibility between the two currencies (Meddeb 2012, 91–97). Tribes allied with the Gadhafi regime also benefitted from the smuggling economy - while representing a significant simplification, Ben Guerdane's largest tribe, the Twazine have widely been perceived to be allied with the Gadhafi regime prior to 2011, causing significant complications for Twazine traders in Libya after the dictator's fall (International Crisis Group 2013).

While smuggling networks have been a part of the rent distribution in Libya, the smuggling of subsidised goods to Tunisia – gasoline, but also olive oil and other consumer goods – also represents a significant financial shortfall on the side of the Libyan state, especially as Libya, a major oil producer, still imports large volumes of its refined gasoline due to a scarcity of domestic refineries. As will be discussed in Chapter 8 and 10, this has led to repeated pressure against these smuggling networks on the Libyan side in recent years.

Already complex under the Gaddafi regime, Tunisia's relationship with Libya has become increasingly fragmented following the 2011 uprising and the development of multiple competing governments within Libya. As before 2011, negotiations between state actors have played a critical role in the procedures that regulated smuggling along the Tunisian-Libyan border, as specific interests and power balances between involved actors changed repeatedly. However, while this interaction is important, and will be discussed at length in the following chapter, it contains conflicts and common interests but does not indicate that the interests on the Tunisian side are fundamentally driven,

⁸¹ See, for example: Micallef 2017; Hüsken 2018; Meddeb 2017.

or subservient to the interests or power of actors on the Libyan side. There appears to be no indication that, at least before 2011, elements of the Tunisian state have been systematically and strategically tolerating the smuggling of licit goods in order to sustain rent streams to allied groups in Libya.

7.2.4 Rents to State Agents and Structures – Conclusion

This section has briefly reviewed some of the principal rent streams that direct income to state actors through the institutions that regulate smuggling economies in Tunisia and Morocco. While some state agents benefit personally from the trade through individualised patron-client relationships, a range of state organs have been shown to benefit more systematically, through systematic income boosts to large sections of their personnel, or through the direction of rent streams into formal budgets through formal and informal taxation (Prud'homme 1992; Andreas 1999, 95).

However, this section has also noted that by themselves, these rent streams do not offer a complete explanation of how and why huge smuggling economies are tolerated and informally regulated by the two North African states. Instead, we find security personnel in both countries forgoing potential bribe incomes from certain part of the local smuggling economy, while state actors interviewed for this project, both on a local and a national level, continuously emphasise the importance of the smuggling economy for the stability of the borderlands, and some actors, such as the regional-level administrations, involving themselves in the toleration and regulation of these economies without receiving any rent streams. It is hence important to look at the remaining rent streams – those directed to non-state actors, in order to understand the full dynamic at play in these borderlands, and the wider political settlements of Morocco and Tunisia.

7.3 Elites, Masses and Stability – Rents to Non-State Actors

Like state actors, non-state actors are not a homogeneous group - borderlands are complex social spaces, and there are myriad ways to distinguish between rent streams to different groups, tribes, classes and constituencies. In addition, rent streams to private actors are not restricted merely to actors in the borderlands. As Chapter 6 has noted, in the language in which locals speak of the smuggling economy, the 'barons',

‘big fish, and ‘bosses’ are often contrasted with the ‘little guys’, the ‘ants’, the ‘youth’. While this dichotomy presents a simplification, it points to the enormous variety in the opportunities for accumulation presented by different positions within the smuggling economy, depending on capital or connections, barriers to entry, limits to social mobility, and the fundamental conditions for class formation.

This section cannot map this diversity exhaustively but focuses on the role that rent-streams to non-state actors play for the state and its relationship with the smuggling economy. It distinguishes, somewhat simplistically, between the effects of rent streams that allow for large-scale accumulation, and those of survivalist rent streams. While the former primarily relate to the management of national and local level elites, the latter relates to wider dynamics around employment and stability in the borderlands.

The section argues that rent streams channelled to non-state actors, and particularly borderland populations, constitute a key incentive for the Moroccan and Tunisian state in tolerating large-scale smuggling economies. While some barriers to entry, as well as the effects of capital accumulation, have created an environment in which high rents are accumulated by a few actors, large sections of local smuggling economies are also structured to make them highly labour-intensive and reserve certain sectors with very low barriers to entry, hence functioning as a creator of survivalist employment in otherwise marginalised regions. It is here where one of the smuggling economy’s primary roles in the political settlements of Tunisia and Morocco can be found.

7.3.1 Smuggling Rents and Elite Accumulation

Social mobility within North Africa’s border economies has fluctuated with periods of boom and bust. In both borderlands those that have benefitted most from the smuggling economy appear as a relatively diverse mix of actors who, at the right moment in time, had access to the right connections or capital to take advantage of the opportunities that changing trade structures and political environments provided. The biographies and politics of these actors are complex and deserve a study of their own. Focusing on the distribution of rents and their relevance for states, this section aims instead to highlight three points. First, both the trade in licit and illicit goods have led to significant accumulations of capital by some individuals. Second, across both case

studies, these actors do not exhibit a systematic overlap with traditional local elites or novel political movements. And third, the role of the state in the regulation of smuggling has put many of these actors in a position of dependency vis-à-vis some state actors, particularly the security services.

In Ben Guerdane, smuggling has provided locals who had the connections or the capital to enter or expand the business under the right conditions with opportunities for the accumulation of substantive amounts of wealth. While some of these opportunities lie in the smuggling of illicit goods, not all smuggling of licit goods is survivalist. For some, the provision of informal financial services has been highly lucrative (Meddeb 2012; International Crisis Group 2013). The construction of some of the large new warehouses along Ben Guerdane's wholesale markets of smuggled licit goods provides an indication of significant capital accumulation within this sector, especially in the immediate post-2011 years.

While it is difficult to ascertain a comprehensive overview of the different individuals who have been able to accumulate large amounts of capital from the smuggling economy, they do not appear to constitute a homogeneous group. They include younger traders and some who were able to expand their business in the immediate post-2011 period. They do not appear to overlap with the elders of the city's tribal groups,⁸² the authority of which has been framed as waning and limited in its reach into the informal economy (T64).

While local stories commonly connect some of these individuals with clientelist links to figures within the state security apparatus, they do not generally appear as political actors, or as representing a local political trend or movement. The members of parliament from Ben Guerdane since the 2011 revolution, while not all strangers to the business, do not appear to have been important players in the smuggling economy but primarily maintain relationships with those traders that are also active in civil society organisations.⁸³

As mentioned above, not all actors who were able to extract high profits from Ben Guerdane's smuggling economy were from the city, or even from Tunisia's south. Beginning in the early 2000s, the Ben Ali regime increasingly inserted members of

⁸² Although they naturally overlap with the groups' membership.

⁸³ See Chapter 8.

the family of president Ben Ali, as well as his wife Leila Trabelsi into many of the country's successful businesses (Freund, Nucifora, and Rijkers 2014). This extended to the country's smuggling economy. While the Trabelsi family was particularly active in smuggling through the port of Rades as well as along the Tunisian-Algerian border, they also became increasingly involved in Ben Guerdane in the early 2000s, cooperating with a few large-scale smugglers, while also leveraging their relationships with the customs authorities in order to import goods unchecked and untaxed (Abdel Baky 2018; Kartas 2013).⁸⁴

In Morocco's Oriental, too, opportunities for more significant accumulation of capital through the rent streams generated by the smuggling economy exist both within the trade of licit and illicit goods. Here, too, economies of scale in the wholesale trade appear to provide significant opportunities to actors with capital: there are cases of informal gasoline and electronics traders for example that were able to accumulate enough capital to launch large and successful formal business ventures (M91, M102, M103). In contrast to the Tunisian case, there appears to be less accumulation within the informal financial sector, and more connected to the exports of narcotics out of Morocco, particularly cannabis (Hanlon and Herbert 2015).

As in the Tunisian case, the group of beneficiaries from these larger accumulations appears as a diverse set of actors and do not appear to be typically associated with more traditional elite groups: local tribal elders or the local leadership of the region's dominant political parties of the post-independence years have not been associated with the smuggling economy in any of the conversations for this project. As in Tunisia, there are no indications that the larger rent streams resulting from the smuggling economy have given rise to a local political elite that aims to present a challenge either to the state, the monarchy or the current regime.

In contrast to the Tunisian case, there are also no clear indications that there has been a strategic insertion of national-level elites into the local smuggling economy, but it is impossible to rule this out entirely. However, more recently, a number of local businessmen that are perceived to have their origin in the region's smuggling economy, both in licit and illicit goods, have sought direct political office, at a local, regional and even national level. Notably, the entrance of local businessmen into

⁸⁴ The role of the Trabelsi networks in Ben Guerdane changed over the years – see Chapter 8.

municipal and regional politics in the Oriental is frequently connected with the rise of the PAM, a party that is closely associated with the monarchy and the central state (M91, M67). This connects directly to the next point.

The role of the state in the toleration and regulation of smuggling implies that actors that have been able to accumulate larger amounts of rents maintain a form of dependency on state actors, and particularly the security services. In interviews, political operatives in Northern Morocco have highlighted the state's ability to exert legal pressure on local actors that have their origins in the smuggling economy, including those that have since taken a role in formal politics. In the words of a regional political operative (M67): "The state knows how to handle them. If they get close to making any trouble, the state can always say, oh, look, we have this nice police dossier here, why don't we take a look at that?" While there have so far been no incidents of politicians from the region facing legal charges for their involvement in the smuggling economy, arrests of actors connected to smuggling activities with high profit margins are not without precedent (Boukhars 2019).

The same is true in Tunisia, which has repeatedly seen both arrests of local smugglers who had been operating with high profit margins, as well as the confiscation of some of their capital. As will be discussed more fully in the following chapter, BAT special forces raided the houses of multiple of the large financiers of Ben Guerdane's smuggling economy in 2017. While this triggered some protest and outrage within the city, it demonstrated the continued capacity of the Tunisian state to selectively target local actors.

While a full discussion of the capital accumulations created by the smuggling economy goes beyond the scope of this project, the observations outlined here – diversity, a limited overlap with traditional political elites or markers of identity in the periphery, an absence of oppositional political activism and dependency on security services – do not suggest that these groups have so far presented a political challenge to state structures in the region.

In a sense, their dependency mirrors the preferred economic elite of an authoritarian regime – as the Ottoman empire or the early North African states preferred the emergence of Jewish or Christian merchant classes which presented a smaller political threat (Malik 2012, 30), so may the modern states of Tunisia and Morocco have looked

at the emergence of a smuggling nouveau-riche with less concern than some of the public statements suggested. However, before moving on to a discussion of the wider political settlement, it is important to highlight that the majority of borderland actors involved in the smuggling economy operate on significantly smaller scales – they are the focus of the next section.

7.3.2 The Masses: Regulation, Rent & Access

As previous chapters have highlighted, distinctive features of the regulation of the smuggling of licit goods in Tunisia and Morocco are both its impersonal nature and the organisation of the trade in a way that makes it highly labour-intensive. Neither of these is a necessary condition of the smuggling networks' economic activity, illegal status and informal regulation – one could easily imagine an illegal wholesale import business that maintains continuously high barriers to entry and is not labour intensive. Both capital accumulation for elites and rent extraction by security services would still be feasible - in fact, the smuggling networks operated by the Trabelsi family in Tunisia in the early 2000s provide a prime example of this.

And yet these features are essential to the smuggling economy's ability to maintain opportunities to make a living for even some of the least connected and educated members of the borderland population, and especially its young men. This does not appear coincidental – the smuggling economy's role in 'feeding the borderlands' is constantly cited in conversations with smugglers, civil society members, bureaucrats and politicians. When describing his priorities, one of the key negotiators of the agreement regulating smuggling at Ras Jedir after 2011 noted: "We want there to be a system in which everyone makes enough" (T59).

The necessity of providing accessible jobs and income to borderlands populations has crucially shaped the way that smuggling of licit goods in Tunisia and Morocco is organised and regulated. More importantly, it provides a compelling explanation of the key political functions of the trade and one of the central drivers behind its toleration and organisation. In order to illustrate, this section points to four features of North Africa's smuggling economies that highlight this relationship.

First, while incumbent actors have been able to erect significant barriers to entry to certain sections of the local smuggling economy, especially in the trade in illicit goods,

and defended their monopolies in these trades through monopolising supply chains, co-operation with security forces, or simple use of violence, barriers to entry in multiple large-scale sectors of the smuggling economy across both borderlands have remained very low. While these sectors might still contain a diverse mix of actors, and a range of profit margins, no particular connections, few skills, and very little capital is required to join them. This has allowed a wide range of local actors to gain access to rent streams generated by the smuggling economies. In both borderlands, the smuggling of gasoline is a case in point of this. While wholesalers who transport significantly larger quantities of contraband gasoline exist in both countries and may maintain larger profit margins, they have generally made no efforts to limit the arrival of new entrants – in the words of one Tunisian scholar: “they leave that for the little man” (T42).

In Tunisia, capital barriers to opening up a roadside contraband gasoline station are extremely low. While some of the larger wholesalers may pay around 400 Dinar/month for a little roadside garage, many of the smaller vendors pay no rent at all, relying instead on simple wooden structures, a funnel with a filter placed next to the road and some jerry-cans, which cost around 5 Dinar (T94, T95). Accessing the supply network also requires no particular social capital, as contraband gasoline is provided through a large network of transporters, who bring the gasoline across the border and sell it to local vendors.⁸⁵ While larger actors, wholesalers and traders operating multiple gasoline stations do not appear to try to limit their competition through aggressive pricing, they do still enjoy commercial advantages through being able to stockpile larger quantities and speculate on supply shortages. In the words of one gasoline trader in Ben Guerdane: “In gasoline, the big guys can’t bully out the little guys. But they can still buy a really big quantity, and if there is a problem at Ras Jedir, they sell it at a high price” (T94). Working as a transporter – both of gasoline but also small consumer goods that can be bought at markets in Libya – similarly requires no particular connections, although a higher level of either capital or connections, as it requires access to a car.

In Morocco, during the heyday of the gasoline trade, setting up a roadside station similarly came with no significant barriers to entry. There was some segmentation of

⁸⁵ This describes the situation before the effects of the conflict in Libya diminished supply in 2017. This will be addressed in the following chapter.

barriers to entry to the transport of gasoline: becoming a gasoline wholesaler present at the larger exchanges of Moroccan and Algerian gasoline traders required particular personal connections alongside significant capital, but becoming a transporter between a wholesaler and the many roadside vendors however, required only few connections and access to a car. If there was no money for a car, some made do with little motorcycles – a transporter in a rural community outside of Oujda explained to me how he could transport 8 gasoline canisters on his small motorbike, allowing him to transport more than 160 litres at a time (FG7). In certain areas of the rural borderland, local populations were engaging in the gasoline trade through donkeys, mules, or even by carrying the jerry-cans across by hand, hence necessitating very little start-up capital, and still producing significant income for the transporters (M35).

Even more than the gasoline trade, joining the transporters across the border with Melilla provided an easily accessible income stream. While working as a small independent trader requires start-up capital, working as a transporter required none and no significant connections (M41, M42).

Across both case studies, gasoline was not the only smuggling network without significant barriers to entry, which also included a variety of consumer goods, such as (some) textiles and clothes, small quantities of processed foodstuff, or kitchen equipment. These networks retained a diffuse structure, containing many vendors, buyers, and transporters, despite the fact that they passed through only a few small points at the border, which would have been an ideal environment for a single actor to enforce a monopoly, or take a ‘gate-keeper’ function, transforming the network either into a complete downstream monopoly or a classical double-funnel structure. Here, the impersonal nature of the regulatory institutions discussed in Chapter 5 are a crucial factor – by building impersonal structures rather than empowering gate-keepers, they help maintain a diffuse structure of the network, and low barriers to entry.

The same institutions are also relevant to the second point. As described in Chapter 5, many of the institutions at the borders contained regulations that limited the size of the container or vehicle that can be used to smuggle goods through these nodes, thereby ensuring that the transport of these goods has remained hugely labour-intensive. As they only allow foot-traffic through Melilla’s Barrio Chino crossing, the amount of goods that can be brought through in one trip is limited by the carrying capacity of the

transporters and the size of the turn-stiles, creating a huge demand for transporters. Similarly, large cars were typically unable to pass through the ‘gates’ in the border fence between Morocco and Algeria. The size of the cars that could be used to smuggle goods through the Ras Jedir border crossing was commonly an element of the agreement that regulated this trade. In 2014 for example, the agreement included a stipulation that only small cars were able to partake in the trade, excluding transporters and large trucks. So, while some traders would order whole containers to be shipped into the ports around Tripoli, the load would then be divided upon multiple cars, employing a large number of transporters in the process. When an agreement in force between January and March 2017 further reduced the amount of goods that could be smuggled in one single car, wholesalers reported hiring significantly larger numbers of the local youth as transporters (T66, T68). Notably, when restrictions on the type of cars disappeared from the agreement in 2017, negotiators from Ben Guerdane pushed repeatedly for its reinstatement (T96).

This restriction connects to a third feature of the local smuggling economy that contributed to the creation of accessible rent-streams for the local population: barriers to the geographic distribution of some of these rents. Unsurprisingly, the less impersonal elements of the smuggling economies, such as the trade outside of border crossings in Southern Tunisia that required drivers knowledgeable of the local terrain, created advantages for the local population. Importantly, however, even the impersonal institutions that regulated this trade often contributed to a regulatory structure that imposed a particular geographical distribution to the spread of some rent streams, focussing them on the borderlands. A transporter working between Tunisia and Libya would spend an enormous amount of time standing in line at the border, making the job less accessible for someone living far from Tunisia’s borderlands; the same applies for transporters bringing goods over by foot or by donkey in Northern Morocco, and advantaged farmers in the rural borderlands, who had natural storage space in their farms in a beneficial position. As Chapter 5 highlighted, a system of checkpoints and crackdowns on transport restricted the contraband gasoline trade, and some of the distribution centres for non-flammable consumer goods largely to the borderlands.

These restrictions, however, have been partial and fluid. While a Nador residency card is needed in order to work as a transporter in the smuggling across the Melilla border,

for example, these cards can be easily bought in the villages around Nador, and traders working there are not exclusively from Nador anymore (M24, M36, M55, M56). While the number of external traders in Ben Guerdane is still comparatively limited, there are increasing reports of traders from outside of Ben Guerdane beginning to work in the Souk Maghrebi. More importantly, Tunisians from all regions participated in the ‘Khat’, the trade route that transported smuggled goods from Ben Guerdane to markets across Tunisia (Meddeb 2014).

A fourth and final factor that ensures the openness of various smuggling activities to small-scale actors from the borderlands is that the extraction of rents by the security services does not primarily draw on small-scale survivalist activities. The institutions at the borders described in Chapter 4 in particular frequently contain mechanisms that allow small-scale actors to pass through nodes without having to pay regular bribes or informal fees. When discussing these structures, traders frequently interpreted this as an attempt to take pressure off smaller, survivalist activities. Here, however, two caveats are in order - it is worth noting that these ‘bribe exemptions’ have waxed and waned – in Morocco, it seems to be as recent as 2010/11. In addition, this is not to imply that smaller actors they are never coerced into paying bribes by individuals within the security services or are free from harassment, arrest, dispossession or the many brutalities that can be part of the daily lives of the powerless in an illegal economy.⁸⁶

In both northern Morocco and southern Tunisia, the importance of smuggling economies for local populations is amplified by the absence of alternative opportunities for income generation. As noted in Chapter 3, formal economic development has been limited in both regions - there is little industry or manufacturing, while, agriculture, a traditionally strong employment creator has not expanded its employment opportunities in line with demographic changes. In 2011, Ben Guerdane, a city of over 60,000 inhabitants provided less than 900 jobs in industry and manufacturing (ODS Office de Développement du Sud, Ministère du Développement Régional et de la Planification, République Tunisienne 2012). Ben Guerdane’s labour inspector estimated that its Souk Maghrebi alone employs around

⁸⁶ The discussion on access here contains one important simplification: it does not consider the lop-sided gender balance within these access structures. While not directly relevant for the argument made here, this will be discussed in Chapter 10.

3000 people (T62) and that the wider smuggling economy is the largest employer in the city – an assessment that is shared by Haddar (2013). In the words of one of the leading officials in the regional employer’s association, working in the smuggling economy in Ben Guerdane is “not a choice – it is a necessity” (T17). A senior figure in the Souk Maghrebi association put it this way: “it’s the only source of life” (T61).

The situation in Northern Morocco is similar – with a population of over 1,5 million, the region’s industry and manufacturing sectors employ less than 9,000 employees.⁸⁷ A regional government official in Oujda named four rural areas in which his administration had determined that the majority of young men had been working as transporters in smuggling networks: Beni Khaled, Ahl Angad, Ain Sfa and Ain Beni Mathar (M80) – most likely missing a fifth crucial one, Beni Drar, and multiple smaller areas closer to Oujda. An official in a regional development office in Oujda summed up the region’s development experience: “It was always the informal economy who created all this, both in the days when the border was open and in the days when it was closed. Everything we have created and developed here is thanks to the informal economy” (M65). Across both case studies, many of those that were not themselves working in the networks were benefitting from the income through family connections, or through the smuggling economy’s linkages to the formal economy. In the words of one textile smuggler in Oujda (M76): “I have a whole chain of people working for me, think of the people who drive the taxis, who carry the goods. The government is thinking: what other jobs could we get for these people?”

This is crucial for the politics of smuggling in North Africa. The scarcity of formal employment opportunities in the borderlands of Tunisia and Morocco makes the continuation, toleration and institutional regulation of a labour-intensive smuggling economy essential for the stability of the Tunisian and Moroccan states, and the survival of their ruling regimes. As the section on state security services and municipalities already hinted at, the role of the smuggling economy in maintaining stability in the borderlands through employment generation was ever-present in almost all interviews with smugglers, politicians, bureaucrats, or civil society analysts.

A high-level municipal bureaucrat in Ben Guerdane summed it up like this:

⁸⁷ Ministry of Industry, Commerce and Investment, Delegation of Commerce and Industry, Oujda.

“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. Here it was always Libya that provided for people.⁸⁸ People turn to Libya first, and they only turn to the state second, if there are problems with Libya. Then they turn to the state - and here we are the state - to provide for them. And the state needs to provide, for stability. Think, if Ben Guerdane is not stable, that is also the state of [Prime Minister] Youssef Chahed that is not stable” (T112).

An official in local development spelt this out further: “This is a border zone and they want stability. Social peace is more important than the enforcement of the law” (T93).

A smuggler in Morocco quoted a conversation he had with the governor of the ‘Oriental’ mirroring the same sentiment (M54). Explaining his tolerance for the smuggling economy in the smuggler’s village, the governor told him: “I’d rather have them be active in front of the border than in front of my office!” A local associational leader found a different image: “This is only to calm these people. You have to give them something to eat. There is an old French proverb: governing in Morocco is like raining. If it doesn’t rain, and the people have nothing to eat they will riot. And there is still that relationship” (M46).

In both case studies, concerns about public unrest in the case of a collapse of the smuggling economy were frequently expressed. In Morocco, the common concern was “a second Hoceima” (M108), referring to the city on Morocco’s northern coast which had in late 2016 erupted into month-long protests after the death of an informal fish-vendor, triggering a political crisis, protests across the country, hundreds of arrests, and the resignation of multiple ministers. In Tunisia, of course, the concern is not a second Hoceima, but, after 2011, “a second revolution” (T36, FG6). And, after ISIS attacked Ben Guerdane in 2016, failing in their attempt to ‘liberate’ the city partly due to the resistance of its population, a local large-scale smuggler mused: “The government is scared of Ben Guerdane. It is a hot place. If they try to close everything, the people will fight for ISIS next time” (T97).

The fear that a collapse of smuggling economies’ ability to provide employment and income to local populations would lead to large-scale unrests that could seriously

⁸⁸ With Libya, the speaker here refers to the cross-border trade.

destabilise borderlands provides a strong explanation both for states' toleration of these economies, and the engagement in institutional structures that regulate the trade in a fashion that makes them both labour intensive and accessible to the local population. The quotes above, therefore, provide a first direct indication of the role of smuggling in the political settlements of Tunisia and Morocco.

7.4 Conclusion: Smuggling in the Political Settlements of Tunisia and Morocco

This chapter has highlighted the diversity of actors benefitting from the rent streams generated through the smuggling of licit goods in the borderlands of Tunisia and Morocco. As Chapter 3 noted, both Tunisia and Morocco's post-independence political settlements can be classified as clientelist, characterised by a situation "when significant holding power is based on sources outside the incomes generated by formal institutions" (Khan 53). The stability of clientelist political settlements depends on the ability of informal institutions to channel rent streams to those groups who do not benefit from the formal institutions relatively to their holding power. Commonly, in scholarship on political settlements, this is viewed in terms of informal 'side-payments' to elites that could otherwise act as spoilers. This section seeks to draw out which insights the rent streams examined above can provide with respect to the role of smuggling in the political settlements in Tunisia and Morocco.

As this chapter has noted, in both case sites, security services and municipalities, as well as different elite groups have been able to benefit from the trade alongside significant portions of the borderland population. The rents extracted by local and national elites as well as security services might fit the most classical conception of 'side payments' within clientelist political settlements in developing countries, especially given the important position of security services in both countries.⁸⁹ This largely dovetails with the literature on the political economy and business-state relationships in Tunisia and Morocco, which has similarly highlighted the role of

⁸⁹ Here it is interesting to note that in Tunisia, where the military has commonly been considered relatively less powerful within the security apparatus (Barany 2011; Ware 1985), it also features less prominently in the distribution of rents.

crony capitalists and well-connected families close to the ruling regime (Hertog 2019; Marks 2009; Saadi 2019).

At the same time, however, the chapter has highlighted that rents are not only distributed to elite groups but that a key element of the structure of its regulatory institutions appears designed in order to provide an impersonal and relatively accessible informal rent-stream to wide sections of the borderland populations. In the context of a political settlement analysis, these rent streams suggest a ‘side-payment’ to a larger group of the population that is relatively excluded from formal rent streams. Its impersonal nature and access structures here distinguish it from an individual-level patron-client relationship, likening it more to a form of broad-based clientelism like urban bias or geographically or industry-specific subsidies (Kitschelt and Wilkinson 2007).

More so than the interests of security services, local elites, or local norms, these rents provide a compelling driver not just of the toleration of the smuggling economy more widely, but also the structures of its institutional regulation. As this chapter has examined, members of security services, local state bureaucrats and civil society actors all noted that their participation in the toleration and regulation of smuggling is also shaped by the concern that the absence of this rent stream to wide sections of the borderland population would likely trigger widespread unrest, and severely threaten the ability of formal state institutions to continue functioning in the borderlands. In the context of a clientelist political settlement analysis, the rents generated through the regulation of smuggling via impersonal informal institutions thereby provide an essential ‘side-payment’ to a group which would otherwise likely threaten the stability of the settlement itself: the borderland population.

Highlighting rents to borderland populations as an essential political function of smuggling economies provides an argument against one of the most popular claims about informal trade in the region, namely that it is primarily caused by corruption amongst state enforcement agents. While security agents have been able to extract significant rents from smuggling economies, their extraction is balanced with concerns about the stability of the settlement as dependent on rents channelled to the wider borderland population – to the degree that we see cases of state agents not taking bribes at all. Similarly, this provides a powerful explanation for the continuity of the

smuggling economy in the region, its often-observed persistence and ability to adapt to change, to survive countless proclaimed “crackdowns”, anti-corruption campaigns, border walls and civil wars. Here, its resilience is not rooted in its ability to hide itself, to escape the state, or to bend state policies to their will, but because in the borderlands, its continuity is fundamental to the stability of the political settlement as a whole and thereby also in the interest of actors who do not directly benefit from the distribution of rents.

A political settlement reading of smuggling in the Maghreb, therefore, does not support the common claim that it ‘undermines’ the state. On the contrary, it suggests that it is a central part of the institutional structure on which the state itself rests, and a feature of the form of state-building that these two states have pursued. While the regulation that structures smuggling in these locations stands in direct contradiction to the formal law, it has also become necessary for the maintenance of a distributional structure on which the effectiveness of that very formal law itself depends. The focus of formal state investment on the coastal centres in both countries, as noted in Chapter 3, would have been more directly politically destabilising in the absence of accompanying informal rent streams channelled to the periphery through smuggling economies. Here, the analysis connects to the wider political economy of the region.

7.4.1 The Informal Authoritarian Bargain

As noted in Chapter 3, the concept of the “authoritarian bargain” has become a commonly used shorthand to describe the wider post-independence political settlement in much of the Middle East and North Africa. It describes 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).

While it typically makes some allowance for the role of corruption, especially in generating commercial opportunities for crony capitalists,⁹⁰ the political economy scholarship on authoritarian bargains and social contracts in the region typically focusses on methods to channel rent-streams and privileges that are rooted in formal

⁹⁰ See also: Hertog 2017; Hinnebusch 2006; Henry and Springborg 2010; Cammack et al. 2017.

institutions. It also typically lacks a discussion of the geographic distribution of these rents, and thereby remains fundamentally incomplete.

The analysis presented here then offers a corrective to the traditional take on the authoritarian bargain, by suggesting that in the region's borderlands and economic periphery, there existed another, an informal authoritarian bargain. It describes implicit arrangements between authoritarian regimes and a variety of groups in their political and economic periphery, to allow them to engage in technically illegal survivalist and accumulative activities such as smuggling, hawking and the sale of contraband goods,⁹¹ in exchange for political quiescence and assistance with the provision of security. While the employment opportunities provided by informal and smuggling economies provide a certain complementarity to the provision of public sector employment, the cheap goods provided through the smuggling economy provided a similar complementarity to the state provision of subsidised goods.

This is not to say that the economic periphery did not also benefit from the formal elements of the classical authoritarian bargain, but to highlight that the post-independence political settlements across the region contained a highly uneven distribution of formal and informal rent-streams. In addition, it is interesting to note that this uneven distribution did not only relate to rent streams that were accessible to the citizenry more widely, but also to state institutions, as municipalities in the peripheries of Tunisia and Morocco also drew upon informal and hybrid institutions in order to generate funds.

As noted in Chapter 3, the geography of an uneven distribution of formal rents pre-dates the modern structure of smuggling in the region as well as the post-independence political settlement. Both the Tunisian South and the Moroccan North-East suffered intense political repression during the colonial era, alongside limited and primarily extractive economic development. Both regions also remained under-represented among post-independence political elites, while finding themselves on the losing side of post-independence political conflicts, as much of Tunisia's South-Eastern borderlands supported the Youssefist uprising (Blackman 2019) and successive revolts in Morocco's Rif mountains provoked the scorn of King Hassan II.

⁹¹ This could be extended to include the cultivation and sale of cannabis in the case of Morocco, and irregular migration to Europe in the case of both Tunisia and Morocco.

In both countries, state investments into formal sector development remained highly uneven, overlapping with the geographic areas from which most of the political elites hailed, and unable to overcome the structural disadvantages of the economies of the periphery. As the post-independence development model concentrated formal state investment in coastal cities in both countries, the notion of ‘useless’ (‘inutile’) regions became common parlance and is still widely cited in both regions (T111, M106).⁹² This chronology is important in order to note that smuggling economies – at least in their modern structure – neither caused the clientelist national political settlement nor the borderlands’ economic marginalisation. Instead, they appear as a feature of the settlement that developed – and yet their role is not logically inevitable. A more geographically even division of formal rent streams and the development of an independent and competitive private sector might have similarly provided income to border regions – however, this would have implied a lower income, at least temporarily, for the main elites of the post-independence political settlements while also creating another business elite that could create a power base independently from the regime.

This suggests that the role of the political centre in setting the structural conditions of the smuggling economy must be further examined. While the income channelled to borderland populations is essential for the stability of the political settlement, it does not follow that these populations themselves have demanded or engineered this particular mode of incorporation within the settlement. So far, the analysis provided does not indicate that North African states are being ‘remade’ at their borders through the bottom-up order-making of local smuggling economies, as has been suggested in other regions (Raeymaekers 2012b). Neither does it appear that local elites or corrupt local state agents have forced this arrangement upon national-level elites, nor that a more authentic, historically or locally embedded form of order is emerging out of local traditions, tribal structures or moral conceptions. While state agents and institutions point to constraints to their actions through the risk of local mobilisation and unrest, smugglers themselves frequently point to the control that remains with the central state, both in its economic choices and its ability to control and change existing

⁹² While this dynamic is one of the most well-established and most discussed elements of the political and economic development of Tunisia and Morocco, it is not typically put in relation to the development of informal and illicit economies in these regions. (Two notable exceptions here include the work of Meddeb (2012) and Hibou (2011).)

arrangements through arrests and confiscations. Both positions connect directly to a long-standing debate about whether or not informal and illicit economies and the incomes generated by them primarily constitute a “weapon of the weak” outside of the regulation of the state, or a “weapon of the strong” in which elites can instrumentalise disorder in order to enrich themselves (Titeca 2012).

This opens up new questions. Does the fact that the population of the borderlands has received rent-streams in the context of the national political settlement imply that they are included in it, or does this require additional power over the architecture of the settlement? What happens if the settlement or the underlying distribution of power changes, if the state is either unable to continue the distribution of rents through the smuggling economy, or refuses to do so? And what are the mechanisms through which pressure is exerted and negotiated? All these questions point to the importance of a closer analysis of how power is distributed and exercised in this context.

As Khan has pointed out, observing and predicting power in political settlements is a difficult task, but can be approached by observing them change over time (2010, 7). In order to observe how institutions and rent streams have reacted to changes in the distribution of power, the following two chapters, therefore, focus on changes in the two case studies in recent years. Chapter 8 begins by analysing the developments in Tunisia’s southern borderlands since 2010. In the years that followed, the 2011 revolution, the civil war in Libya and the Islamic State attack against Ben Guerdane all brought challenges and changes to the balance of power in the borderlands, prompting a renegotiation of the role of smuggling in the wider political settlement. Chapter 9 then turns to Northern Morocco. While Southern Tunisia experienced revolution, the role of smuggling in Morocco’s political settlement and the balance of power in Morocco’s northern borderlands were challenged through reforms by a new king, alongside the collapse of large sections of the local smuggling economy. These chapters, alongside Chapter 10, will draw on comparative elements between and within the two case studies to offer a more dynamic view of the nature of these political settlements, the role and power of different groups in their negotiation, and their effects on the local population.

Chapter 8: Smugglers and Revolution – Tunisia 2010-2017

8.1 Introduction

On the 14th of January 2011, Tunisia's president Ben Ali joined his family on a flight to Jeddah, Saudi Arabia, having dissolved his government and declared a state of emergency after weeks of protests against his rule. He never returned to Tunis— the next morning Tunisian state TV announced that Ben Ali had resigned his position, marking the first Arab dictator to step down in what became to be known as the 'Arab Spring'.

In the stories of southern and central Tunisia, the 2011 revolution has many homes. Its origin in the country's interior, in the protests that erupted in Sidi Bouzid in 2010 after the self-immolation of Mohamed Bouazizi, has become a part of the popular narrative. In the mining towns of Gafsa, people frequently refer to a local protest movement in 2008 as the real beginning of a revolution three years in the making (Chomiak 2011). In the stories told in Ben Guerdane, too, the revolution has a prologue. In the Ramadan of 2010, protests and strikes rocked the border town, as locals were protesting against a border closure that hurt the local smuggling economy. Just a few months later, revolution swept the country.

At a national level, Tunisia's 2011 revolution has led to some clear changes in the country's political settlement. It has seen the creation of new institutional structures including a constitution that is generally considered as democratic and progressive (Williams and Mahmoud 2014), and that has been the grounding of a series of free and fair elections in the following years. This institutional structure has been, at least for the years covered here, largely been underpinned by consensus politics among a group of actors which had also changed since 2011, now no longer including the personal network of the former president Ben Ali, but including the previously persecuted moderate Islamist movement (Angrist 2013). At the same time, the continued existence of crony networks, regional economic inequalities, IFI-aligned monetary policies and a series of economic crises in the following years cast doubt over the degree to which distributional structures had really changed, as continuously

high unemployment, high inflation and regional inequalities spurred new protests in the following years (International Crisis Group 2012; Béatrice Hibou et al. 2011).

This chapter follows the changes that Tunisia's political settlement underwent since 2010 from the perspective of its southern borderlands. The seven years since those 2010 protests have been dramatic and eventful in Ben Guerdane: the revolution brought the complete collapse of the local state enforcement capacity, followed by negotiations for its gradual return, the installation of new security infrastructure, the emergence of legal civil society organisations representing smugglers, an ISIS invasion attempt, and the escalation of the civil war in Libya. But what do these events suggest about the role of smuggling in the political settlement of the post-2011 democratic Tunisia, as well as the power relations that shape its regulation and negotiation?

The chapter begins by arguing that while the 2010 protests in Ben Guerdane were not a trigger to the 2011 revolution, they were an indication of a wider dynamic of the late Ben Ali regime – a continual testing of the limits of the existing political settlement that ultimately led to his downfall. Subsequently, the chapter traces how changes in the relative balance of power between smugglers and state agents, the changing institutional structure of the Tunisian state and the volatile security situation have shaped the re-negotiation of the role of the smuggling economy in Tunisia. It notes that despite all these events, by 2017, the central role of the smuggling economy had remained relatively stable: still a central source of income for the borderlands, it was as fundamental to the political settlement of the democratic post-revolutionary Tunisia as it had been to the Ben Ali regime. Its re-negotiation reveals a continued willingness by the Tunisian state to tolerate and regulate smuggling, alongside an interest by smugglers themselves to re-institutionalise their relationship with state structures after the disruption of 2011, albeit on revised terms. Interestingly, new democratic institutional structures have facilitated formalised collective action among smugglers and contributed to a re-structuring of the intersection between smugglers and state agents.

8.2 The Ramadan Protests and the Revolution (2010-2011)

In beginning to discuss the changes that the 2011 revolution brought to the political settlement of Tunisia, and in particular, from the perspective of Ben Guerdane, it is important to start with the observation that the pre-2011 political settlement was not stable, but also that it also was not Ben Guerdane that led to its collapse.

While Ben Ali had come to power in 1987, it was primarily the second phase of his reign, beginning in the early 2000s, that was marked by an increasingly predatory insertion of members of his family⁹³ into positions of power within the national economy, thereby displacing more established recipients of rent streams (Diwan, Malik, and Atiyas 2019, chap. 6,7). The years leading up to the 2011 revolution also were accompanied by the repeated flaring up of popular protest movements in the region's periphery, most prominently the 2008 protests in Gafsa (Chomiak 2011). While Ben Ali won the presidential elections in 2009 with almost 90% of the vote, and the idea of a popular revolution sweeping away his regime would have seemed outlandish to most analysts, there were dynamics of contestation and the testing of the limits of the current political settlement.

These national dynamics were mirrored in Ben Guerdane in the summer of 2010. The past decade had been good to the city's smuggling economy, as traders from around the country were supplying themselves with cheap goods in Ben Guerdane. While there had been some tension between the municipality and the vendors in the Souk Maghrebi over the municipality's experiment with tax farming in 2008, this had been revoked by 2009 (T39). While the Trabelsi family had somewhat inserted themselves into the local smuggling economy, as the chapter above has discussed, this insertion had remained relatively limited compared to their more extensive control over smuggling on the Algerian border (Hanlon and Herbert 2015, 14). Some of the Trabelsi's business ventures even represented a form of synergy with the local smuggling economy, such as the role of a bus company commonly associated with the Trabelsi network in providing transport for customers to the Souk Maghrebi (Wikileaks 2006). And yet 2010 was to serve as a serious test of the importance of Ben Guerdane's smuggling rents for the wider stability of the region, and an indication

⁹³ As well as the family of his second wife, Leila Trabelsi.

of the deep distrust between the town and the Tunisian state – two themes that were to remain hallmarks of the coming years.

While the proximate causes for the 2010 Ramadan protests in Ben Guerdane are clear, their deeper political dynamics are highly contested. Starting in later 2009, the Libyan state imposed a fee of 150 Libyan Dinars for Tunisian traders entering Libya, which slowed down the local smuggling economy but could still be managed through Libyan intermediaries (Meddeb 2012, p. 205), before the Libyan authorities completely closed the border for Tunisian traders in August 2010. The effect on the local economy was devastating: as the smuggling economy through Ras Jedir ground to a halt, thousands were missing their main income stream, and the town's cafes began to fill with unemployed young men.

Partly because a full explanation for this closure was never provided from the Libyan side (Ibid., p.206), different stories existed about the motives for this closure. Talking to Kamel Morjane, Tunisia's foreign minister at the time, the origins for this decision were entirely Libyan:

“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. I was then asked to go into Libya, with the Minister of Interior and the Minister of Commerce, to solve this problem during Ramadan. The Libyan Prime Minister received us around 11pm, then went to see Ghaddafi, and then came back with his decision to open the border. Ghaddafi always closed the border when he wanted to punish Tunisia for policies that he didn't like⁹⁴. When you meet with Ghaddafi, that's always difficult, because you never know if you have succeeded or not” (T49).

In Ben Guerdane, however, much of the anger was not directed at Gaddafi, but instead at the Tunisian state. Almost everyone that I spoke to in Ben Guerdane believed that the origin of the border closure lay with the Tunisian regime, that Ghaddafi's actions were in fact “whispered to him” by Ben Ali (T73). In this version of events, Ben Ali either secretly requested or provoked the border closure by the Libyan regime, in order

⁹⁴ It is unclear which policy KM is referring to here, but it appears likely that this could be the refusal of the Tunisian state to sell an oil distribution licence to Libya (T8).

to directly hurt the smuggling economy of Ben Guerdane. In one version of this story, the Ben Ali regime wanted to block the southern smuggling economy as a result of pressure from the well-connected formal business community. In the more common version, however, the Ben Ali clique was motivated to crack down on the Ben Guerdane smuggling networks because these were competing with multiple other smuggling networks in which the Trabelsi clan had a significantly larger stake, most importantly one operating through the port of Rades, and Sfax, as well as the market at El-Jem. It is difficult at this point to conclusively determine which version of events is correct, however, the absolute dominance of the second version of events in Ben Guerdane is a telling indication of both the scepticism towards the Ben Ali regime and the conception of that regime working in the service of Northern business elites, legal or illegal, that have been staples of the political discourse in the Tunisian south.

More importantly, the events demonstrate how important the rent streams from the smuggling economy were for stability in the Tunisian south in pre-revolutionary Tunisia and evidence the power of traders in the borderland community to mobilise and put pressure on state institutions if their trade was threatened. The month after the border closure saw massive protests – both peaceful and violent – in Ben Guerdane, including hundreds of arrests, burning tires and police cars, and the posting of more than one thousand riot policemen in Ben Guerdane and its surroundings (Nawaat 2010). The protests saw much participation by the younger generation and the making of some local political activists that would later come to play a role in the democratic Tunisia: in 2011, Nafti Mahdhi, who had been one of the leaders of the protests, was elected to the newly formed National Constituent Assembly.

Locally, many people draw a connection between the 2010 protests and the 2011 revolution, highlighting the frustration with the Ben Ali regime that was at the centre of both protest movements, claiming that the summer 2010 riots were “the first time that the police was defeated in Tunisia” (T65). However, the two events did not directly merge into each other. Once the border was opened again in September 2010, calm returned to Ben Guerdane (Nawaat 2010). When protests began in Sidi Bouzid on the 17th of December 2010, they first spread in the country’s interior, only reaching Ben Guerdane on the 26th of December, and Medenine on the 27th (Barrie 2018). So rather than viewing the Ramadan 2010 protests as a trigger or beginning of the 2010 revolution, they are better conceptualised as an indication of how essential smuggling

rents were to the ability of the Tunisian state to control and stabilize its southern borderlands, and as one of a wider set of instances of a regime noting the limits of its political settlement – before being swept out of power just a few months later.

For the smugglers of Ben Guerdane, the 2011 revolution did not only mean the end of the Ben Ali regime, but informal regulations of smuggling that were dependent on the participation and enforcement by state agents were swiftly suspended amid the complete collapse of state enforcement capacity at the border. Police, municipal agents, border guards and customs had all largely abandoned their posts, control of the border crossing was taken over by local civilians (T12). What followed for much of 2011 and 2012 was a form of goldrush for the local smuggling economy, as any controls on the quantity of goods that could be brought through disappeared alongside any tariffs or bribes. Goods that were previously monopolised by networks connected to the Trabelsi clan, such as sportswear or Tuna, could also be traded by everyone (T40). In the words of one smuggler in Medenine: “During the revolution, we brought in everything. There was no state. We brought in cannabis, everything” (T76).

In Ben Guerdane, the period immediately after the 2011 revolution allowed a variety of local actors to profit. While those who had significant amounts of capital available could benefit from bringing in huge quantities at no costs, smaller actors could benefit from the increasing volumes as well as the expansion of the distribution network for gasoline. As the mechanisms that had contained the sale of contraband gasoline to the borderlands collapsed, informal roadside gas stations could increasingly be found around the country. According to an employee at a large international gasoline supplier to Tunisia, internal analysis suggested that in the years between 2011 and 2014, providers of formally imported gasoline recorded losses of up to 80% in some areas in the south and north-west of the country and up to 60% in its centre (T11). In the period after 2011, the local economy also benefitted from the influx of Libyan refugees and travellers, supplying informal money exchange booths with a cheap and expansive supply of Libyan dinar. Still, while the smugglers of Ben Guerdane were happy to make hay while the sun was shining, some that I spoke to also recalled an awareness that this situation would not last for long (T40).

8.3 Negotiating New Settlements (2012-2014)

Apart from initiating changes to the national-level institutional structure and governing coalition, the 2011 revolution also changed the balance of power between smugglers and agents of the state in the southern borderlands in ways that would prove to be important for the negotiations of the role of smuggling in the new political settlement. The revolution temporarily weakened the enforcement capacity of the central state as well as the local state apparatus, as policemen, soldiers, customs officers and tax collectors were only slowly returning to their postings, and unsure about their new status, orders and power in the post-revolutionary state. As later sections of this chapter will discuss, this weakening lasted longer for some state actors than others: while the municipalities remained without local enforcement services for years, this weakening was more temporary for the centralised security services.

A more permanent change was the dramatic increase in the freedom of expression and association following the 2011 revolution, as the development of civil society organisations that could increase the ability of citizens to organise, coordinate and put pressure on state institutions was to play a crucial role in the re-negotiation of the Ben Guerdane's smuggling economy post-2011. This section traces two negotiations for the reinstatement of an informal regulatory system in Ben Guerdane after the 2011 revolution: one around the procedures at the Ras Jedir border crossing, and one around the taxation of the Souk Maghrebi. One involves smugglers negotiating with the central state, while the other involves them negotiating with the local municipality.

8.3.1 Negotiating the Procedure at the Ras Jedir Crossing

While the large wholesale smugglers operating through the Ras Jedir border crossing had profited significantly from the lack of regulations and control after the 2011 revolution, some of the traders sensed that a backlash was coming (T40). Tunisian media outlets were running stories about the increase in smuggling, accusing the smugglers of supporting terrorist organisations, and politicians began to jump upon the topic. Short, temporary closures of the Ras Jedir crossing became more frequent.

In early 2012, the Organisation of Tunisian Libyan Brotherhood (OTLB) was founded by a group of wholesale smugglers of consumer goods from the Ras Jedir market, a

school teacher and four men working as transporters on the Ras Jedir route (T40). The expressed purpose of the group was to act as an intermediary between the traders in Libya, the traders of Ben Guerdane – the Souk Ras Jedir in particular, and the Tunisian government. Since its foundation, this group has been a key element in the smuggling networks' bargaining with the central state. The group's ability to form itself, and seek a legal, organised and structured rather than clientelistic relationship with the state was a direct result of the revolution, as its own leadership highlighted (T40). While the group is in no form a democratic representation of Ben Guerdane's wholesalers, the past years have demonstrated their ability to negotiate arrangements that have been accepted by local traders.

One of the primary concerns of the OTLB in the immediate post-revolutionary phase was the rhetoric, expressed by politicians and media alike, that claimed that smuggling networks were similar to, or cooperating with terrorist groups. When the president of the OTLB had the opportunity to meet Tunisia's president at the time, Moncef Marzouki,⁹⁵ together with other civil society leaders from Ben Guerdane, this characterisation of smuggling on national television was one of their main talking points. Their suggestion was the creation of a TV show that would clarify the difference between smuggling and terrorism, and express that "the border is a resource for us" (T40). At the same time, the group offered advice to the president on who the Tunisian state should interact with in the confusing and rapidly changing post-revolutionary political environment in Libya.

While taking a formal meeting with an association that was de facto representing smugglers is an unusual decision for a politician, it was not uncharacteristic for Tunisia's president at the time, Moncef Marzouki, a lifelong human rights activist and political maverick. When I spoke to him about the meeting in Tunis in 2017, he had lost the presidency to Beji Caid Essebsi, and was accused by his political rivals of being a 'terrorist sympathiser' for his criticism of a lack of accountability of the security forces. Asked why he decided to take the meeting, he answered: "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

⁹⁵ The existence of this meeting has been confirmed to me by both sides.

economy. I know that the President believes that they are all criminals. But don't forget that these people also called me a terrorist" (T45).

Aside from seeking to address their reputation, the OTLB also expressed their willingness to re-instate a regulatory arrangement for the procedures at Ras Jedir that would end the ability of smugglers to pass through without any payment. They approached the regional head of customs as well as the governor of Medenine with the proposal to reintroduce a 'fee' to be paid by smugglers at the border crossing, beginning with 50 Tunisian Dinar, approximately one-third of the rate that was typical before the revolution, to perhaps be increased slowly over time (T40). One of the negotiators of the proposal recounted to me that the deal was proposed in a meeting with a delegation of the regional governor and a regional customs official on the phone (T40). After two months of deliberations on the side of the governor and the customs, this fee was in fact introduced at the Ras Jedir border crossing, appears to have been generally accepted by the local traders, and rose to between 100 and 150 Tunisian Dinar by the summer of 2014.

Slightly lower than the pre-revolutionary rate, the new fee reflected, in the view of the traders, the weakened bargaining position of the post-2011 state, but also the unsustainability of the 2011 'free for all' (T40). In this same timeframe, other elements of regulation also returned: the old prohibition against large trucks, providing an advantage for local traders, also was re-introduced at the border crossing (Ibid.). Given the position of the governor and regional customs head in a highly centralised Tunisian state, it is highly unlikely that this decision was made on a local or regional level. Instead, it is best interpreted as the first indication that the post-revolutionary democratic Tunisian state would continue to tolerate and regulate its southern smuggling economy.

8.3.2 Souk Maghrebi

Similar to the agreement at the Ras Jedir border crossing, the hybrid institutional structures that had regulated the relationship between the municipality of Ben Guerdane and the vendors at the 'Souk Maghrebi' had also collapsed with the 2011 revolution. Three developments had changed this relationship.

First, the enforcement capacity of the municipality had decreased drastically. The municipal agents, who had usually collected the market fees as well as a variety of other municipal taxes, had suffered a particularly harsh blow to their image through the revolution, as it was one of them, Faida Hamdy, that had confiscated the scale of Mohamed Bouazizi, the informal vendor whose self-immolation had become a symbol of the revolution (Fahim 2011). When municipal agents refused to leave their offices, the government reassigned them to the police, leaving them to be answerable to the local police chief, and out of the control of the municipality (T64). The police, that had before the revolution occasionally helped in collecting municipal taxes, was generally unwilling to support the municipality in these activities in the years following 2011 (T36).

Second, the municipality's lack of the ownership rights of the land on which the market was built was exposed to the vendors. As mentioned in Chapter 6, the land on which the market was built belonged to the Ministry of Defence, leaving the municipality unable to either sell or rent the land to the vendors and leading to the hybrid regulatory arrangement that had existed before the revolution (T84). In 2011, through proceedings in a local court, the vendors learned about the illegality of this procedure and consequently refused payment to the municipality (Ibid.). Here, the national institutional changes that came with the 2011 revolution was crucial, as it both increased the local population's access to information, and made it impossible for the weakened municipality to continue with, and enforce, an illegal form of fee-collection.

Third, the expansion of the freedom of expression and association after 2011 facilitated the organisation of vendors in the market. With the assistance of the municipal labour inspector and a national-level NGO, the Tunisian Inclusive Labour Initiative, a group of vendors from the market founded a market association, the 'Association of Ben Guerdane's Traders'⁹⁶ in 2012 (T61). The explicit goal of the association, as expressed by its leadership, was to formalise and legalise their relationship with the municipality and negotiate a new procedure for the organisation and taxation of the market. At the same time, this formalisation would not entail the payment of the full tax rates – instead, the association was arguing for the creation of

⁹⁶ Author's translation.

a free trade zone, covering all of Ben Guerdane (Ibid.). Apart from the municipality, the association had approached regional and national level politicians and claims to have met with the governor (T56). As with the OTLB, the ‘Association of Ben Guerdane’s Traders’ was talked about with scepticism by some of the local vendors that I spoke to (T98), but did become the de facto main interlocutor for the market.

The confluence of these three factors dramatically weakened the bargaining power of the municipality vis-à-vis the vendors of the Souk Maghrebi. In line with classical political settlement analysis, a shift in the balance of power directly affected institutional performance. After the revolution, the vendors refused to pay any fees to the municipality until a new agreement had been reached. The municipality, on the other hand, was unable to offer any form of legal agreement until it had acquired the land on which the market stood, which was formally owned by the Ministry of Defence. In the turbulent context of post-revolutionary politics and frequent cabinet changes, this proved to be a difficult exercise.

In 2014, as confirmed by municipal officials (T41), the market association and the municipality reached an agreement that suggested that in exchange for paying a yearly fee of 240 Tunisian Dinar – equivalent to the rate that had been paid in 2008 – the vendors would be willing to sign contracts with the municipality, which in turn guaranteed that the vendors would gain access to electricity, the absence of which had been a long-standing grievance in the market.⁹⁷ On 11 September 2014, over 200 vendors provided copies of their identity cards in order to have contracts with the municipality set up. However, the deal failed in the end: the municipality was unable to follow through on their end of the bargain, as they still did not own the land (T64).

For the municipality, the loss of these income streams was catastrophic. By 2012, the municipality’s market income had fallen to less than a quarter of its 2008 level. While a superficial look at its total budget indicates an increase following 2011, this was primarily due to a rise in transfers from the central state in order to sustain the higher expenses that came with the increases in government salaries after the revolution. The budget without state interventions had been almost halved (Figure 21). In addition, the

⁹⁷ At the same time, the municipality had also engaged in a dialogue with the OTLB over payments at the Ras Jedir market, however these negotiations stalled almost immediately (T41).

continuous postponing of municipal elections after the revolution (Oueslati 2018) had left the municipality without elected political leadership for years. Consequentially, the primary local state organ responsible for articulating a vision of economic development remained side-lined in the post-revolutionary years. Furthermore, in 2015, any hope for an engagement with Ben Guerdane that was not primarily security-focused was quickly derailed by two tragedies.

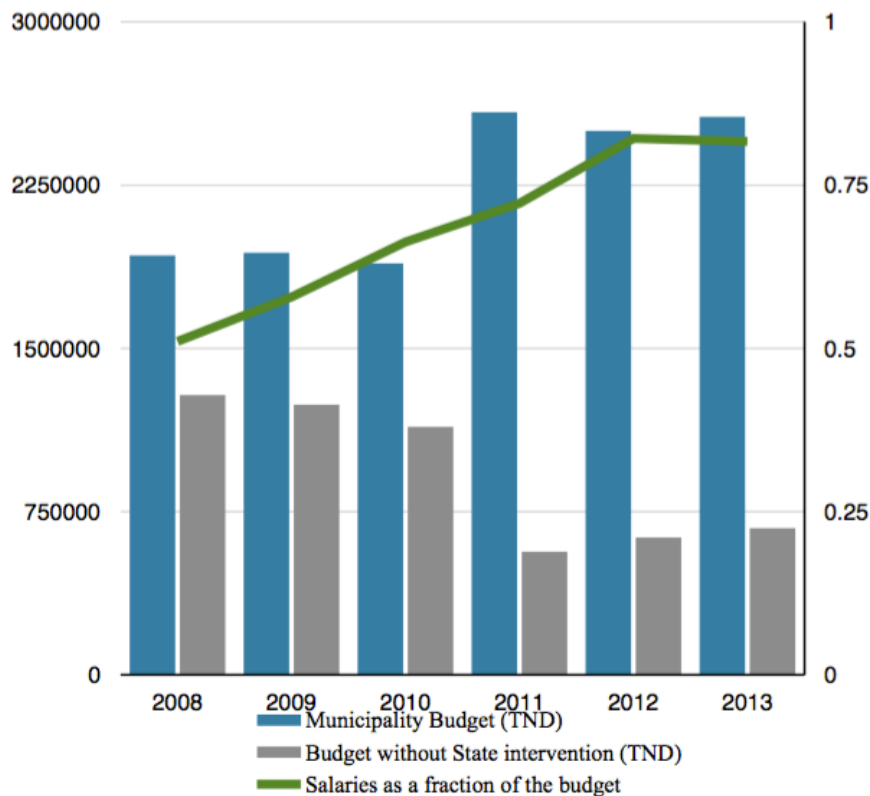


Figure 21: Budget data for the municipality of Ben Guerdane 2008-2013 (Source: municipal budget data, Ben Guerdane, accessed by the author in 2014)

8.4 Settlements under Attack (2015-2016)

In the summer of 2015, two terrorist attacks shocked Tunisia. In March, an attack on the Bardo Museum in Tunis left 24 dead. In June, a gunman killed 38 people at a tourist resort near the city of Sousse (BBC 2019). Both attacks were claimed by ISIS. Swiftly, terrorism returned to the top of the Tunisian political agenda. Targeting largely foreigners, the attacks also served to cripple the country’s tourism industry for years to come, and re-focused international attention in Tunis from democracy promotion to security issues. As some of the men involved in these attacks had been

trained in camps in Libya, and over 3000 Tunisians were still estimated to be among the ranks of extremist groups operating in Syria and Iraq, the issue of Tunisia's border security became a national and international preoccupation (BBC 2016). In 2016, construction began on a trench across the Tunisian – Libyan border (Mersch 2019), accompanied by new surveillance infrastructure funded jointly by the US and Germany (Pollock and Wehrey 2018). A new scanner was installed at the Ras Jedir border crossing (T68), and police presence in the town increased significantly. These dynamics accelerated dramatically in March 2016.

On the morning of March 7th, a group of around one hundred IS militants that had been training in Libya launched an attack on Ben Guerdane that was aimed at 'liberating' the city and establishing a foothold for the Islamic State in Tunisia (Saleh 2016). Apart from simultaneously attacking key strategic points of the Tunisian military and national guard, the fighters also seized a local mosque, broadcasting a message to the local population through its loudspeakers, and encouraging them to join the Islamic State. With the Medenine region functioning as one of the largest per capita suppliers of foreign fighters to the Islamic State (Rosenblatt 2018), Ben Guerdane has long occupied a prominent position in the region's jihadi imaginary – Al Qaeda's leader in Iraq, Abu Musab Zarqawi, is commonly cited as saying about the town that "if it was located next to Fallujah, we would have liberated Iraq" (Raghavan 2016).

Counting on local support ended up being a serious miscalculation on the side of the IS fighters. Not only did Ben Guerdane's population refuse the call to support the attacking Islamic State fighters, but many locals took up arms themselves and fought side by side with the Tunisian military (Romdhani 2017). A comparatively high number of local IS recruits, economic marginalisation and dissatisfaction with the Tunisian state did not translate into wider support for the Islamic State. As had been discussed in Chapter 6, the moral and religious landscape that surrounded the smuggling economy is frequently characterised by conservatism and disillusionment with the central state, but does not necessarily dovetail with violent jihadism.⁹⁸ After a few hours, the IS fighters began to be pushed back, by the end of the day, their failure was apparent. In the end, 49 militants, 13 Tunisian security forces and 7 civilians lost their lives (L'Orient Le Jour 2016). While the Tunisian government celebrated the

⁹⁸ Albeit only briefly mentioned, Cantens and Raballand (2017, 13) make a similar observation.

victory and Ben Guerdane buried their dead, Prime Minister Essid also announced a “thorough evaluation” of the local security structure (L’Obs/AFP 2016). The return of the security apparatus to Ben Guerdane was in full force.

Smugglers, activists and administrators that I spoke to all agreed that the March 2016 attack fundamentally changed their relationship with the Tunisian state, as the presence of police, national guard and military forces once again increased significantly. In the immediate aftermath of the attack, many locals that I spoke with, including smugglers, welcomed this change (T68, T97, T94, T95). In the words of one local resident, “after the revolution, there was a lot of freedom, but then there was too much freedom, and it was dangerous, and people wanted the police to come back. And it is only a small group of people here who really want the freedom - not the families” (T69). Almost everyone I spoke to expressed the need for a larger security presence in the city. However, the changes did not only bring security. In the words of one prominent local human rights activist: “We have gained security, but we have lost much, in terms of commerce, in terms of our standard of living. (...) Before these events, two to three thousand of our youth could make a trip to Libya every day and earn 100-150 Dinar – now they don’t make that in a month, and that affects the families that they are going to feed” (T107). He added: “the margin of liberty in Ben Guerdane is now much reduced” (Ibid.) This sentiment was mirrored by a police officer giving me an involuntary ride to the Ben Guerdane police station. Explaining to me that the attitude of the Tunisian police had changed since the revolution, he noted: “You must know that we are now all for freedom of expression. Just not in Ben Guerdane.”⁹⁹

This new situation naturally affected the continuous negotiations around the procedures at the Ras Jedir border crossing. A local wholesale smuggler involved in the negotiations for the agreement complained: “After the 7th of March, people who talked against the new arrangements were threatened with being arrested as terrorists” (T68). Smuggling through the Ras Jedir border crossing continued, as security forces largely emphasised calm and stability. When I asked one large-scale smuggler in one of our conversations why there had not been more resistance against the increase in security force presence, he cited the continuation of the trade through Ras Jedir as a

⁹⁹ From the author’s field notes, 14.02.2017.

crucial reason: “Because for Ben Guerdane, if the border is open, they accept anything” (T97).

Bit by bit, however, the costs of smuggling, through payments at police checkpoints, the informal fee at the border crossing, and limitations on the quantities that could be transported, increased. The state had returned, and the balance of power shifted. By early 2017, the informal fee to be paid to the Tunisian customs agents at Ras Jedir had reached 300 Tunisian Dinar, six times the value with which the OTLB-led negotiation had originally re-introduced the fee.¹⁰⁰ In the months leading up to the 2016 attack, a scanner had already been installed at the Ras Jedir crossing. Following a concern from the side of the Tunisian government that weapons were smuggled through the border crossing, the quantity of goods that could be smuggled under the prevailing procedures dropped significantly, eating further into the traders’ profit margins (T66, T68). At the same time, however, the fortifications along the border south of the border crossing, intended to decrease the activity along the ‘contra route’ had no noticeable impact on the smuggling activity across this route in 2016 and early 2017.¹⁰¹ In the words of a high-ranking local police commander: “I’ve been here for three years. That wall? We built a tiny ditch and put a bit of sand on one side, and that’s it.”¹⁰² Indeed, most of the smugglers operating on that route either put wooden boards over the ditch and drove across it, or threw their goods across.¹⁰³

Fundamentally, the year after the IS attacks saw an increase in state enforcement personnel at the Tunisia-Libya border, once again somewhat altering the underlying distribution of power in the borderlands. As would be expected, it saw a re-negotiation of the institutions that regulated the smuggling economy, shifting towards higher expenses for smugglers and higher presence and side-payments to security personnel as well as some concessions toward the interests of the central state with respect to the quantity of goods that could be smuggled. The fundamental necessity of these income streams in the political settlement, however, had not changed.

¹⁰⁰ This has been triangulated through multiple interviews with different traders as well as informants involved in negotiating this agreement.

¹⁰¹ There are some indications that this changed in 2018 through the addition of surveillance equipment provided by the US and Germany, however this is beyond the scope of this section.

¹⁰² From the author’s field notes, 14.02.2017.

¹⁰³ This is based on interviews with smugglers, videos recorded by smugglers, and the visibility of tire marks along and across the fortifications on satellite images.

8.5 Popular Diplomacy (2016-2017)

The years following the 2016 attack also once again highlighted that the Tunisian state was not the only actor with whom the regulation of the smuggling economy had to be negotiated. The fall of Gaddafi in 2011 set in motion a struggle for authority in Libya, which quickly took on a highly localised dimension, with different cities, militias and tribal groups vying for resources and influence (Wehrey 2018; Lacher 2013). As the post-revolutionary political agreement unravelled in 2014, this dynamic intensified (Megerisi 2018). For external actors, including the Tunisian state, engaging with a variety of rapidly changing local interlocutors became increasingly difficult. At the same time, rent streams generated from smuggling economies, including human trafficking, the trade in drugs and weapons, but also licit goods such as foodstuff, gasoline and crude oil had become crucial resources for competing groups in the Libyan war economy (Eaton 2018). The Ras Jedir border crossing, in particular, had become a valuable resource in the power struggle for Western Libya. As control of the border crossing became increasingly contested, the fragility of Tunisia's political settlement, being dependent on the toleration of illicit trade networks by one of its neighbours, became increasingly visible, giving rise to significant unrest, and a process of 'popular diplomacy' led by smugglers, throughout 2016 and 2017. This section provides another example of the centrality of the rents from the smuggling economy to the stability of the Tunisian South, the willingness of the Tunisian state to recognise this necessity, and the continuous re-negotiation of its regulation after 2011.

During the 2011 revolution in Libya, brigades from the coastal city of Zuwara quickly seized control of the Ras Jedir border crossing, and have remained an important presence at the crossing for the years that followed (Boukhars 2018). Ethnically Amazight, Zuwara had been marginalised during Gaddafi's rule, and maintained a tense relationship with the largely Arab tribes that surrounded the town from the South, as well as the Arab coastal town of Zawya (Willis 2015). In the years since 2011, Zuwara has developed a reputation as a comparatively well-governed city, organised largely through its municipal council (Bader et al. 2017, 14–33). While Zuwara gained some international attention in 2015 for expelling migrant smugglers from the town (Micallef 2017, 11–12), it has benefitted from other smuggling routes running through its territory, most importantly the gasoline smuggling route running

from the refinery in Zawya to the coast of Zuwara and from there on to Malta and Southern Europe (Zaptia 2018), and the route at the centre of this chapter, running from the Ras Jedir crossing to the ports of western Libya.

In the years since 2011, conflicts in western Libya around the control of this smuggling route caused significant difficulties for the traders of Ben Guerdane. Attempts by other actors in western Libya to gain control of these smuggling routes not only caused uncertainty for smugglers, but also often multiplied the numbers of checkpoints on their routes, increased the costs of passage, and often left them at the mercy of untrained and unruly militias (T61, T68). Most prominent among the actors challenging the control of Ras Jedir by Zuwara was the ‘Brigade of the Martyr Jamal Ghaeb’, a militia formed in 2011 south of Zawya. The expanding role of the group from 2016 onward represented one facet of a new phase of competition around the control of the smuggling routes, making the situation increasingly untenable for Tunisian traders.

Following a series of disagreements around the fees that different groups were demanding from traders, as well as multiple incidents between smugglers and armed groups manning checkpoints in Libya, the conflict began to escalate throughout 2016. In April, the groups manning the Libyan side of Ras Jedir closed down the traffic of goods, citing "harassment" of Libyan travellers and the damage that fuel smuggling inflicted on the Libyan economy (Middle East Eye 2016). Protests and strikes followed in Ben Guerdane. As in 2010, the focus of the anger was not just against the groups in Libya, but against the Tunisian state, which people felt was not being sufficiently supportive of the town. The crossing was opened again, before another closure in August following a skirmish between armed groups on the Libyan side (Réalités Online 2016), and then again in September, when smugglers from Ben Guerdane blocked the road to the border crossing following the killing of a young man in the military zone near the border (HuffPost Maghreb 2016).

Finally, in November 2016, traders of Ben Guerdane, smugglers and civil society organisations blocked off the border crossing under the slogan “Let Ben Guerdane live”, citing the high costs of smuggling and the poor treatment that some of them had

undergone at the hands of armed groups in Libya (*Al-Wataniyya Tunis* 2016).¹⁰⁴ By entirely cutting off their own income streams, the smugglers managed to signal how seriously they saw their livelihoods threatened, and put pressure on the Tunisian government to find a solution for the city. In a sense, this indicated a rejection of the political settlement which they saw as having slipped to including them on terms that were not sufficient to maintain their livelihoods.

While Tunisian authorities were alarmed and eager to resolve the situation, they also frequently pointed out that they lacked the connections and local knowledge in order to broker a deal with the groups on the Libyan side (T101, T57). Instead, the situation at the Ras Jedir crossing was resolved through a series of locally driven informal negotiations, in what became known as the ‘popular diplomacy process’.

Throughout 2016, a group of local smugglers, including the head of the OTLB and the Association of Traders of Ben Guerdane (T61), the spokesman of the sit-in, local civil society leaders and a member of parliament had built channels of communication with different groups on the Libyan side and were now providing the main negotiation channel with actors in the borderlands of Western Libya. While the sit-in continued, these communications intensified. As reported by its participants, meetings between the affected parties took place, first in Ben Guerdane, then in Zuwara (T57). They included the aforementioned local traders as well as representatives of the Tunisian police and customs, representatives of the Libyan customs, and nine different municipalities on the Libyan side of the border (T102), as well as, as a document produced through the process indicates, members from multiple Libyan armed groups including the Jamal Ghaeb brigade.¹⁰⁵

By January 2017, these talks had led to an agreement on the procedures under which smuggling was to be conducted through the Ras Jedir border crossing. When I spoke to them, some of the participants in these negotiations claimed that they had the full support of the Tunisian government to informally negotiate a procedure for the Ras Jedir border crossing that was in violation of Tunisian law as long as it did not endanger the state’s security (T68). While I was not able to verify this, by January

¹⁰⁴ Different interview partners have made conflicting reports as to whether or not the demands of the protesters also included calls for the removal of Ben Guerdane’s police chief and the head of customs at Ras Jedir.

¹⁰⁵ Memorandum of Understanding, see Appendix 2.

2017, informal support of the Tunisian government for these negotiations is indicated through direct meetings between members of the cabinet and members of the ‘popular diplomacy’ negotiation team (T68, T102, TunisWebdo 2017). In exchange, the negotiators report to have assured them that the procedures would still maintain a no-tolerance policy towards “terrorism, drugs and weapons” (T102). Still, officially, the Tunisian state never endorsed the agreement (T68) – the Member of Parliament who signed the agreement made clear in his conversations with me that he did so as a member of Tunisia’s civil society, justifying this rather unconventional step as the only solution to avoiding larger unrest, and finding employment for the young men of the region, in the absence of formal employment opportunities (T57, T58).

The agreement that was finally reached (full text in Appendix 2) contained tight limits on the amounts of goods that could be brought through but was soon re-negotiated for more permissive agreements, as outlined in Chapter 5. While the ‘popular diplomacy’ was not without its critics and accused of being personalistic (T65), ideological, or an undermining of the state’s role in diplomacy (T101), it did manage to negotiate a new agreement for the border crossing that was broadly acceptable to all main parties. It supported the mediation between a variety of actors on the Libyan side, specifying how different rent streams would be divided among different Libyan groups, and established a channel of negotiation that became increasingly institutionalised, as meetings between the ‘popular diplomacy’ participants continued after the opening of the border.

The ‘popular diplomacy’ negotiations show the degree to which the post-revolutionary state had, after initial suspicion, come to accept that stability in the South remained dependent on rent streams from the smuggling economy. Its willingness to rely on local smuggling networks to negotiate the procedures at Ras Jedir with Libyan interlocutors highlights the fact that in their understanding of the necessity of these rents, smugglers and state were largely pulling in the same direction.

However, the process also demonstrated a deep and commonly unacknowledged dependence on Tunisia’s eastern neighbour. Discussions around the challenges that the Libyan revolution and the ongoing civil war have brought for Tunisia’s economy and typically focus on the effects of Libya’s instability, highlighting issues such as migrant streams, poor border control and the illicit arms streams (World Bank 2017).

What is usually left unconsidered is that a new post-war power structure in Libya could also create a Libyan national political settlement which may not be compatible with the presence of a vast smuggling economy on its border with Tunisia, and consequentially cut off rent streams that even the post-2011 state has come to expect and rely on.

A preview of such a scenario occurred in the spring of 2017. Libya's civil war had led to a deterioration of the domestic economy, triggering a liquidity crisis, a booming black market, high inflation and increasing scarcity of many essential goods in Libya. Gasoline, which had been traditionally cheap due to the generous subsidy policies of the oil-rich state, had become increasingly expensive, as large volumes were smuggled onto oil tankers off the coast of western Libya, and criminal networks began to redirect gasoline from the official supply networks, and sell it off at more expensive prices (Eaton 2018).

As a result, the public acceptance of gasoline smuggling to Tunisia dropped sharply, and civil society groups in western Libya began organising demonstrations against the practice (The Libya Herald 2017). For those that had been looking to put pressure on the smuggling networks, gasoline, which was also consumed locally, and smuggled by a diffuse and not particularly well-connected network, was an ideal target. In the words of one Libyan activist: "Our pressure is on gasoline, but our real intent is on the oil. You can't blame the small guys, but we start with these because it's the easier part" (T114). Quickly, local authorities, including the city council of Zuwara¹⁰⁶, began to express to their Tunisian partners that in order for the trade of Ras Jedir to continue, the gasoline trade had to stop (T102).

Consequently, in the summer of 2017, the procedure at Ras Jedir changed again, and limits on the amount of gasoline that could be brought through were strictly enforced. The amount of gasoline that was allowed to come through was now limited to what a normal-sized tank could hold. According to local traders, even the contraband gasoline trade through the desert had collapsed, demonstrating the enforcement capacity of these informal arrangements (T106).

¹⁰⁶ Confirmed via email by a member of the Zuwara municipal council to the author, July 2017.

The effect of this shortage on the local gasoline networks was devastating. While most informal gasoline stations remained open, prices skyrocketed. By mid-July, the price of 20 litres of contraband gasoline had almost tripled, and at times rose beyond the price charged at formal gas stations. Most vendors remained stoically optimistic, hoping that more gasoline would come through again soon (T108). By the time of writing, this has not happened. Just before I left Ben Guerdane in July 2017, I spoke to a gasoline vendor who had opened his store just a few months earlier. I told him I admired his patience. He smiled, then paused. “Soon” he replied, “there will be an explosion” (T106).

8.6 “I’m with the suspect”: Ben Guerdane in Tunisia (2017)

The above sections have traced the re-negotiation of the role and regulation of smuggling in Tunisia political settlement after its 2011 revolution from the perspective of its southern borderland. They have demonstrated that under the surface of these tumultuous years, the rent streams generated by the smuggling economy have remain fundamental to the stability of the post-revolutionary political settlement in Tunisia. From a political settlement perspective, which understands democracy as compatible with clientelist settlements that rely on informal institutions (M. Khan 2010), this is not in itself surprising. However, the process of this re-negotiation itself has pointed to important aspects of the settlement. It has allowed the chapter to trace the importance of the relative balance of power between different local state structures and smugglers, while noting a willingness if not eagerness by both sides to re-institutionalise their relationship after the events of 2011. In addition, the chapter has noted how, partially as a result of the changes that came with its transition to democracy, negotiations between smugglers and state representatives have become increasingly formalised, as formal associations founded by traders began to play a more prominent role. Chapter 10 will expand on this.

And yet, despite these developments, the relationship between the central state and Ben Guerdane after 2011 and particularly after 2016 was characterised primarily by security problems and security solutions, rather than economic development. The primary representative of the Tunisian state in its southern borderland was still the policeman and the soldier. The tolerations and negotiations by the state outlined above

remained informal, while public statements on smuggling were often aggressive. Developmental projects for the historically marginalised regions remained a talking point but failed to materialise.

Consequentially, there is good reason, before concluding a chapter that has traced negotiations between smugglers and the state, to return to Ben Guerdane one more time to expand on how the city's relationship with the post-revolutionary state was perceived locally.

This is to highlight that to explain the deepening resentment towards the central state that can often be felt in the Tunisian south today, looking at the negotiation of rent streams alone is insufficient. I will focus on two events, both of which carried a certain symbolism, and received much public attention in Ben Guerdane: the first anniversary of the 'Battle of Ben Guerdane' in the spring of 2017, and the arrest of a group of informal currency traders in the summer of the same year.

8.6.1 Remembering Ben Guerdane

For the one year anniversary of the IS attack on Ben Guerdane, a committee of local civil society associations in cooperation with the Ministries of Culture and Youth had put together a week-long programme of celebrations, including concerts, poetry readings, seminars and sports events, that was to culminate in a visit by Prime Minister Youssef Chahed to Ben Guerdane. The theme of the week, remembrance, was endowed with a double meaning. Apart from remembering the martyrs of the 2016 attack, the celebrations were explicitly designed to remind the Tunisian state of Ben Guerdane, and of past promises to take a more developmental approach towards the city. "The first goal was to remember: remember the battle and how people died, and to remind the government about Ben Guerdane, which was forgotten," one of the main organisers argued. "We want to remind the state of Ben Guerdane – for 60 years, people have waited for development in Ben Guerdane, and that is what we want to remind them of." This argument was not separate from the local smuggling economy: "The relationship between the state and Ben Guerdane depends on Ras Jedir, if it is open things will go well, and if it is closed there will be difficulties. So we hope that one day the state will find a replacement for this gate" (T90).

The events also showed an awareness by the organisers and volunteers that despite having been the scene of a victory against a terrorist group, they were still associated with terrorism in public discourse. In the words of a local activist: “We want to show a good image for Ben Guerdane, show that we are against terrorism, that terror can never win here. We want to show people a good image for the south. And we want to give young people hope so that they do not turn to terrorism” (T83). One of the organisers mirrored this sentiment: “These events are to show people many things. We are not the factory of terrorists, we are the grave of terrorists. The sons of Ben Guerdane, these youth here, they like life” (T90). Many of the events also tried to highlight the city’s economic potential. A run to the beach aimed to ‘remind’ its audience that Ben Guerdane was close to the sea, and that a tourism industry could be developed there.

Not everyone in Ben Guerdane was behind this project, however. While some enjoyed the events and noted the chance to present a better image of Ben Guerdane to national media, others took issue with the concerts and poetry readings on religious grounds or found them inappropriate in the context. Others opposed the costs, arguing that the money should instead be spent on development projects, or found the event to take a too conciliatory tone with respect to a state that had failed to make good on its promises to deliver economic development.

Two public plenary discussions on ‘youth’ and ‘economic development’, also illustrated the difficulties of the local civil society in addressing these topics. While the invited speakers at the seminar on ‘economic development’ struggled to apply their lectures to the circumstances of Ben Guerdane, the following discussion quickly foregrounded popular grievances. “The government locally exists only as police and security forces, not as investment,” one of the contributors concluded, “the government has said to Ben Guerdane: ‘you have Ras Jedir, work as much as you want, but we are watching you.’”¹⁰⁷ Multiple speakers expressed frustration that the wealthiest smugglers, when choosing to diversify into the formal sector, would invest in the country’s North rather than in their city. Comments included calls for action directed at the state, especially with respect to investment, alongside complete disillusionment with the state. “The government has always been absent here”, another

¹⁰⁷ Author’s fieldnotes, March 2017.

participant argued, “the only thing it gives us is Doloproan”, comparing the toleration of the local smuggling economy with a popular painkiller. At the Q&A went on, disagreements among members of the audience got increasingly heated, and a fist-fight ensued.

The next day’s event was a seminar on ‘youth’. Organised by a civil society organization, the event was held to a full audience – but, apart from the few young women who were paid to work at the event, I was the youngest person in the room, by a significant margin. Ben Guerdane’s youth had chosen to be entirely absent from the seminar that was advertised to discuss its future. The first of three invited middle-aged speakers launched directly into a discussion of jihadi radicalization, assuming that this was such an obvious prism through which to see the local youth that it did not warrant an explanation. The other two, a French academic and a former government minister entirely ignored the issue of youth in their talks. “Oh, thank God they flew in a French professor to tell me I’m not a terrorist”, one participant scoffed as we walked out. At the same time, many of the younger civil society activists were near the youth house and the sports fields, practising a performance to be presented to the Prime Minister.

Prime Minister Youssef Chahed’s visit represented an encounter between the government of a post-revolutionary state that was still developing its policies towards Ben Guerdane, and a city that was divided and unsure about what to expect from this new state that had so far very much felt like the old one. On the morning of Chahed’s visit, Ben Guerdane woke up to the number of local police checkpoints having multiplied. Security force presence on the street was overwhelming, moving around Ben Guerdane was difficult. From the early morning on, fighter jets flew over the town at a low altitude and at regular intervals. People were livid, interpreting the jets as an intimidation tactic and the security presence as a sign that the Prime Minister felt that he needed to be protected from the people of Ben Guerdane - the exact people who were expecting his praise for having protected Tunisia against the Islamic State.

When Chahed gave a televised speech in the city centre, angry protesters could be heard throughout, chanting “get out”, or “Marzouki”, the name of the former president and one of Chahed’s political rivals. While the visit contained important promises – the development of a local industrial zone, a water desalination project, compensation for the martyrs’ families, and the transfer of the land of the Souk Maghrebi to the

municipality – the local reaction was quickly characterized by mistrust. I watched the Prime Minister’s speech together with a group of traders and vendors in the Souk Maghrebi market. Most of the vendors agreed with the sentiments of the protesters. After the speech, a little joke made the rounds, based on the Prime Minister’s last name also being the Arabic word for “witness”. “Are you with Chahed?” one vendor asked the other. “No”, the other replied, “I’m with the suspect.”

Before the end of the day’s festivities, and the presentation of a show rehearsed by the Youth House, the Prime Minister had already left Ben Guerdane. His day in the city had been a microcosm of the complex relationship between the town and the central state, characterized by mistrust and the sensibilities caused by security questions as a lowest common denominator. Among the things that the Prime Minister left behind was a statue, commemorating the martyrs of the 2016 attack, which had been the centre of much controversy in the week leading up to his visit. Rumours about enormous costs of the statue had given rise to accusations of corruption and waste, others were frustrated with its location in a square that had become commonly used for protests and demonstrations. Now, as it was supposed to be unveiled by the Prime Minister, it turned out that the statue was still not finished. It would still remain unfinished for years.¹⁰⁸

The ‘War on Corruption’

Another ‘visitation’ of the central state to Ben Guerdane, a few months later, also began with Prime Minister Chahed. On May 23rd, Chafik Jarraya, a businessman with a reputation for his political connections, was arrested on the charges of “attacking the integrity of the state” (Cherif 2017). In the weeks and months that followed, other businessmen and customs officers were arrested, as Chahed declared that the Tunisian government was at “war” with corruption (Kahlaoui 2017).

It did not take long for the ‘war’ to reach Ben Guerdane. One week after Jarraya’s arrest, an infamous large-scale smuggler in Ben Guerdane, known by his nickname “Washwasha”, was arrested on charges of supporting a terrorist organisation (Kapitalis 2017). Three weeks later, 13 of Ben Guerdane’s *sarraf*, the providers of informal financial services, were arrested in their houses in the middle of the night by

¹⁰⁸ The statue was finally inaugurated in March 2018.

special forces and charged with financing terrorism. Allegedly, three million Dinar in cash were confiscated (Business News Tn 2017). Most of the men were released quickly after their arrests, and the arrests did not revoke the general tolerance that the government kept with respect to the popular diplomacy agreements or the procedures at Ras Jedir (DirectInfo 2017). And yet, the campaign, and especially the fashion in which it was conducted, left a deep impression on Ben Guerdane.

The accusations of terrorism, the use of specialised anti-terror units, and the boasts about the large confiscations of cash all were typical features of the ‘War on Corruption’. But for Ben Guerdane, they also reinforced the image of a state that on the one hand tolerated smuggling networks as alternatives to economic development, but on the other hand freely used force against them whenever it was convenient, especially to habitually raid them for cash, like a modern-day *mallah*, the military expeditions during the Beylical period that used to collect taxes from remote tribes (Anderson 1986, 66). Locals were particularly frustrated with the fashion in which the arrests had been conducted. Most used the word “attack” rather than arrest. Almost everyone mentioned the fact that they had been arrested at night, and in front of their families. In the words of one smuggler: “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” (T105).

Nobody I spoke to believed that any of the traders were actually connected to terrorist groups. A high-level source in a Ministry involved in the ‘war on corruption’ confirmed to me that the accusation of terrorism and the special anti-terror unit had primarily been used because it did not include much judicial supervision: “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 the judiciary.¹⁰⁹ 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” (T119). The same source also confirmed that the arrests did not change the government’s wider attitude towards the role of the smuggling economy in ensuring

¹⁰⁹ The comment likely refers to the concern, referenced at another point in the interview, that the inefficiencies of the judicial system could slow down the process, or make it impossible to bring forward charges at all.

stability in the South, but was merely “conjunctural” rather than structural, “aiming to reinstate an equilibrium” (T119).

After the tumults and negotiations of the post-revolutionary period, these events were a harsh reminder of what it meant to be included ‘informally’ in a political settlement, and of the means that the new – increasingly recovered and allegedly democratic – state still possessed in exerting pressure on the smuggling networks. They were also an occasion to question what it meant to be “included” at all, and on which terms – a question that Chapter 10 will return to.

Chapter 9: Smugglers and Reform – Morocco 2003-2017

9.1 Introduction

July 2013 was a fateful month for Omar Hajiira. At the beginning of the month, the mayor of Oujda had attended a popular Moroccan talk show and voiced some of the challenges that came with governing a city dependent on smuggling economies (2M Monde 2013). Drugs were coming into the country; expired foodstuff was affecting the health of the local population. In the standard move of a Moroccan politician looking for applause, Hajiira turned the conversation to Algeria: “Why are our neighbours doing this to us?”. Just a few days later, it looked like Algeria was replying. In late July, soldiers began digging a trench along the northern section of its border with Morocco (Jaabouk 2013), the dramatic beginning of a larger effort to fortify its western border, which in the following years would include a larger trench, and finally a wall. Much of the local smuggling trade, and in particular the gasoline trade, began to collapse. Omar Hajiira returned to a city in crisis.

While it’s still a popular local talking point that Hajiira’s TV appearance directly caused these developments, the increase in border fortification is, in fact, more consistent with a wider Algerian strategy, mirrored on the border with Tunisia and Mali, of fortifying its borders in the context of security concerns (Herbert and Hanlon 2015, Herbert 2016). The previous chapter described how the closures of the Ras Jedir border crossing in Tunisia, even for a few weeks, have set off significant protest movements, directly threatening state control in the borderlands. Morocco’s North-East, traditionally no less dependent on its smuggling economy, now faced a permanent closure. A rent stream that had been fundamental to its informal integration into the national political settlement had dried up, almost overnight. And yet, against expectations, the collapse of the local smuggling economy did not cause a major destabilisation of Morocco’s North-East. The region did experience an economic crisis, but protests were generally small and sparse. What had happened?

While the previous chapter has argued that underneath a flurry of dramatic events, the fundamental dependence of Tunisia’s political settlement on smuggling rents has

remained constant in the past decade, this chapter argues the opposite for Morocco. It demonstrates that in the decade before the smuggling economy's collapse, a series of political and economic reforms, sparked largely by the ascendancy of a new king and Morocco's response to the 2011 uprisings, reduced the importance of the rents generated by the smuggling economy, re-structured the intersection between state and traders, and created alternative strategies for key local elites and merchants. These changes, together with the acceleration of formal state investment in the region after the border closure and the continuation of the smuggling economy on the border with Melilla, provided a context for the re-structuring of income streams in the North-Eastern borderlands. While the Tunisian case represents the continuation of an informal integration into the political settlement of its borderlands in the context of the transition from authoritarianism to democracy, the Moroccan case describes the increased formalisation of the incorporation of the borderlands into the wider political settlement in the context of the maintenance of the authoritarian political structure.

This chapter traces the changes in Morocco's political settlement from the perspective of its North-Eastern borderlands. Like the previous chapter, it examines the negotiations and changes that maintained the combination of formal and informal rent streams, institutions and power structures that characterise political settlements. As in the Tunisian case, it also observes a re-structuring of the intersection between state and informal actors. However, contrary to the Tunisian case, which noted the strengthening of the organisational capacities of informal actors to articulate demands from the bottom up, albeit without breaking free of the confinements of an informal incorporation into the political settlement, organisational changes within the border economy in Morocco were more actively shaped by the state in a top-down fashion.

The chapter begins with the reforms enacted in the early years of the reign of Mohamed VI, a new development plan for the 'Oriental', and the reforms that followed the 2011 uprisings. It then discusses how these reforms have changed the situation and opportunities of those involved in the local smuggling economies before 2013. Finally, it examines the effects of the new border fortifications from 2013 onward, as well as the support programmes for borderland communities that were introduced by the Moroccan state.

9.2 A New King, and a New Start for the North

For Morocco, the new millennium began with a new monarch. In July 1999, Hassan II, who had shaped Morocco's post-independence development for almost four decades, passed away, leaving his Crown Prince to become King Mohamed VI. As is common in monarchical transitions, the new ruler was publicly framed as a reformer, breaking with some of the policies of his father. In his speeches, he promised to tackle corruption and create jobs for the country's youth. In 2004, he created a commission to investigate human rights abuses committed under his father's rule, pursued new international trade agreements, and passed a new family code, which was framed as advancing women's rights in the largely conservative country. Particularly prominent was his public positioning as an advocate for the poor and the disadvantaged (Sweet 2001). While the real effects of many of these reforms have been questioned (Elliott 2009; Human Rights Watch 2005), they represent an effort to solidify the king's position at the centre of the country's political equation, employing reforms to balance demands for political and economic liberalisation and strengthen links with new constituencies (Sweet 2001).

One corollary of this was the re-shaping of the palace's relationship with the country's North-East. Hassan II had an infamous scorn for the region after having played a key role in putting down the Rif rebellion in 1958, publicly referred to its people as 'thieves' and 'savages' during the 1980s bread riots, and refused to visit it for much of his reign (Ahmed and Akins 2012). His son did not appear to have inherited these prejudices. The region's historic economic neglect not only made it a logical candidate for a demonstration of the king's pro-poor policies but also highlighted the need for local investment in order to counter risks of local unrest and illegal emigration.

And so, on 18 March 2003, Mohamed VI gave a speech in Oujda that outlined the palace's new development programme for the region, launching the "Royal Initiative for the Development of the Oriental". Aiming to stimulate investment, youth employment and especially the SME sector, the initiative was initially endowed with 30 Million Dinar, to be supplemented by funds from other institutions. Its propositions were representative of the general thrust of the king's social and development policies at the time, institutionalised in 2005 in the "National Initiative for Human Development" (INDH). They were also typical in their symbolic and practical

proximity to the royal palace and the central state - up until 2014, the headquarter of the development agency tasked with developing the Oriental was still located in Rabat, 500 kilometres away.

Beyond underlining the image of the king as a pro-poor reformer, the king's speech also hinted at the program's political logic. It put the investments in the context of the fight against "poverty, marginalisation, and all the fancies of extremism," praises the region's "loyalty and allegiance", mentions its crucial role for Morocco's stability and security, describing it as a "bulwark providing the Moroccan state protection", and twice referencing its ability to provide "immunity" (HM King Mohammed VI 2003). From the early 2000s onward, the state's increasing involvement and investment in the North-East already notes an awareness of the risks of social unrests in its periphery, reacting with a conscious, though slight, adjustment of a distribution of formal resources.

The importance of this dimension was to become repeatedly reinforced in the years that followed. In 2004, an earthquake in the region again exposed the degree to which public infrastructure had been neglected. Media coverage emphasised the role that the repeated visits of the king and promises of intense economic support played in dampening local protests following the tragedy (Boutry 2004). The larger test, however, came in 2011. Unlike Tunisia, Morocco did not experience a revolution in 2011, but it did not remain unaffected by the uprisings sweeping the region. On February 20th, thousands protested in the capital city of Rabat, decrying corruption in the country's political system as well as high unemployment, staggering inequalities, rising living costs and police brutality. Large protests followed in most of the country's major cities (Sater 2011).

Similar to the other monarchies in the region (Yom and Iii 2012), the Moroccan state reacted to the protests by promising social and political reforms, paired with promises of higher social spending and selective opposition crackdown. On May 9th, King Mohamed VI announced constitutional reforms in a televised speech. In July, they were accepted by a popular referendum, followed by new parliamentary elections. The reforms included – formally – strengthening the authority of parliament and the prime minister, making Tamazight an official language of the country, and committing to a decentralisation agenda (Maddy-Weitzman 2012).

While they did not topple the regime, the events of 2011 did bring the protest potential of economic inequality back to the attention of the country's administration. Albeit less dramatically than in Ben Guerdane, the region around Oujda had already seen sporadic protests in 2010 and saw additional protests in 2011 (M80, M35). While the development initiative for the North-East pre-dates the 2011 uprisings, many of the larger projects in the region, such as the expansion of formal market structures for street-vendors, or the promotion of a national programme to formalise informally self-employed workers, fell into the post-2011 period. In the words of Oujda's mayor: "We are afraid of the vendors, because there are things happening now, like with the Arab Spring, and you have to remember we are in a border region here. We have to build something here, or there will be trouble. So instead of forbidding it, we have tried to organise it a little bit" (M60).

A large focus of the new programmes launched between 2003 and 2013 was on infrastructure development, picking up on previous grievances and symbolically and practically addressing the region's marginalisation. Multiple projects strengthened the region's connection to the rest of the country through investments in transport links, including an extension of the highway between Oujda and Fez, the construction of a large port in Nador, the extension of Oujda-Angad airport, or the completion of a large highway along the Mediterranean between Tangier and Saidia.

Further projects included industrial parks, the extension of Oujda's hospital, a thermal solar station in Ain Beni Mathar, and two large tourist developments along the Mediterranean coast in Saidia and Nador. The National Initiative for Human Development (INDH), launched by the king in 2005 with a budget of 10 billion Dirham over its first five years, was aimed at improving living conditions in selected cities and rural municipalities throughout the country – many of which were situated within the Oriental (INDH 2010). Its activities ranged from the provision of new carts for street-vendors through cultural activities to the re-construction of some of Oujda's large informal markets: the Souk Tanger, the Souk Quds, and the Souk Melilla. Between 2005 and 2016, the INDH reports having invested 391 million Dirham in the prefecture of Oujda-Angad alone (MAP 2017).

The last few years have seen an academic debate on whether the reforms of the early years of Mohamed VI's reign, as well as particularly the constitutional changes from 2011 onwards, represent a genuine change of Morocco's political and economic structure, or should primarily be interpreted as window dressing by an autocratic regime (Maghraoui 2011; Cavatorta 2016; al-Akhssassi 2017). While these discussions lie beyond the scope of this project, a full evaluation of the development interventions in the North-East is complicated by the fact that in some cases not a lot of time has elapsed since their completion. Still, two wider statements can be made based on the research conducted for this project.

First, among the members of the local business community, politicians, administrators and those involved in the development projects in the Oriental interviewed for this project, a significant consensus emerged that many of the local development projects have not yet delivered as hoped. While most agreed that the infrastructure upgrade was real and helpful, there was significant disappointment with the small amount of private investment it had generated. So far, private investments had been "very, very limited", one high official in the Agence Oriental summarised, "we still cannot compete" (M108). The industrial zones, in particular, had trouble attracting businesses. Oujda's "Technopole", designed to create 15,000 jobs (Agence Oriental n.d.), and originally limited exclusively for companies working on 'clean tech' and renewable energies quickly dropped these conditions, ultimately taking on automobile vendors to fill its space (M65). The absence of a strategy that integrated local labour in the construction of these projects, with some construction companies drawing on expat labour instead, caused significant tension (M67). While a newly created programme to give a new 'self-employed' legal status to informal own-account workers attracted over 100 000 applications in a few years, those were mainly in coastal areas, with the 'Oriental' vastly under-represented (M87).

Second, despite these shortcomings, it can be noted that some of the reforms and developments did contribute to a diversification of the income streams of some of the actors in the local smuggling economy. More importantly, both by decreasing the local reliance on rent streams from the smuggling economy and by affecting the restructuring of the intersection between smugglers and state structures, these changes contributed to the absence of large-scale protest or destabilisation following the border closure. The next section will elaborate on this.

9.3 Changing Rent Streams in the Oriental (2003-2013)

Interviews with a variety of officials involved suggest that development activities in the Oriental between 2003 and 2013 were not designed to substitute smuggling rents, or make them less important to the political settlement, at least in the short to medium term. In the words of a leading administrator in the Agence Orientale, the plan was not to replace the smuggling economy, but “to formalise the contraband, to make it visible” (M108). Nevertheless, at least three features of the 2003-2013 reform agenda directly influenced the Oriental’s smuggling economy: Morocco’s free trade agreements, the construction of new markets in the city centre alongside the creation of new market associations, and the investment opportunities provided by construction projects and the real estate sector. All of these would influence how the region reacted to the border closure in 2013.

9.3.1 Free Trade Agreements

Opening Morocco up to the international market has become a hallmark of Mohamed VI’s trade policy, including new free trade agreements with Turkey (2003), the UAE (2003), Egypt, Jordan and Tunisia (2004) and the USA (2005), and an Advanced Status Agreement in the context of the European Neighbourhood Agreement with the European Union (2008).

For informal trade networks, these meant new competition. Two of their traditional competitive advantages vis-à-vis the country’s formal import sector were slowly eroded: the cheaper price of their goods due to tariff avoidance, and the availability of goods that had not before been formally imported, especially from the European Union. Many of the vendors noted that the demand for their goods had begun to decrease, as “people used to come from Casablanca to Oujda to buy things, and now that is just not happening anymore” (M58). Imports from Melilla, too, decreased in importance. While Morocco’s total imports from Spain increased by 289% between 2000 and 2012, Melilla’s imports – as a proxy for the goods smuggled to Morocco – increased by only 18% in the same timeframe (Castro and Alonso 2014, 98).

The origin of the goods sold in Oujda’s city markets began to change. While almost all goods sold in the Souk Melilla had been smuggled in from the Spanish enclave in

the early 2000s, a decade later many vendors had started to also legally import their goods via the port of Casablanca, or buy from wholesalers who had (M85, M77). While Turkish and Chinese textiles, in particular, became increasingly important, this was not limited to textiles – vendors in the Souk Fellah that had traditionally been supplied through smuggling networks with Algeria had also mentioned that they had begun to buy more from Casablanca (M59). One of these adjustments had become a treasured story of a formal sector entrepreneur and former politician in Oujda:

“When I was still head of the [redacted to ensure anonymity], there were two young men who would sell in front of my office, some canned food product. They had imported it from Algeria, it was smuggled good, but originally it came from Turkey. I could see that those were bright young men, so I talked to them. And I asked them: “Why do you bring this in from Algeria. We have a free trade agreement with Turkey – just bring it in legally!” And they didn’t know that they could do this, and now they bring in whole containers from Casablanca” (M106).

The effects of this were not homogeneous. For example, when I spoke to fabric vendors smuggling through Melilla that had specialised in a high-end market and were well-acquainted with their clientele, they remarked that they did not feel the competition as much as their colleagues working in a lower price segment (M76, M36). Access to capital also determined whether traders were able to capitalise on new opportunities. While smaller vendors would buy from wholesalers in Casablanca, transporting the goods to Oujda themselves, and becoming increasingly uncompetitive, wholesalers could build relationships directly with producers in China or Turkey, ordering goods by the container. A clothes vendor in Nador who had originally imported his goods from Melilla and Algeria told me about his visit to China in 2011 (M46) He had visited a trade exhibition in Guangdong Province, and recalled having been amazed at the large contingent from northern Morocco: “You’d be sitting at a restaurant, in China, speaking Tamazight, and people would come up to you and say “Oh, you’re from Nador, too!” While building relationships with suppliers in China, Turkey or Casablanca helped some of the traders to rebuild a competitive advantage, through obtaining better rates or monopoly access to certain goods (M2). For those who couldn’t, it has meant a weakening of their competitiveness. For both, it has meant a decrease in their reliance on informal cross-border commerce.

9.3.2 The New Markets and Market Associations

One of the cornerstones of the INDH's activities in Oujda was the construction of new markets for the city's informal vendors. The markets fall into two categories. The first includes 28 comparatively small markets built in the urban periphery as part of the "programme against social exclusion in the urban space". Most of them, as their administrators confirm, have not been successful: located in the city's periphery, they do not provide commercial spaces that are attractive enough to motivate street vendors to give up their spots on the busy roads of the city centre (M14).

This differentiates them from the second category of the new markets – the large new markets in the city centre already described in Chapter 6, largely representing a formalisation of formerly informal markets in the same locations, and including significant investments from the municipality, the region, and the vendors themselves. They are significantly larger, hosting several hundred vendors, in some of the best commercial space in the city. The main markets here are the Souk Tanger, the Souk Quds, and the Souk Melilla.¹¹⁰ While the re-construction of the Souk Tanger involved the initiative of Oujda's mayor and the temporary relocation of the vendors during its construction, the initiative for the re-construction of the Souk Melilla came from a fire that destroyed large sections of the original, informal, market in 2011 (M16). By the summer of 2017, a new market for the Souk Fellah had also been constructed, but the vendors had not moved to their new location yet.

As discussed before, these markets had been a central part of the distributional network for licit contraband goods in the region – this was unaffected by their renewal. The new markets did not introduce any controls over the origin or legality of the goods sold, supporting the argument that the purpose of these projects was not the replacement of the smuggling economy, but its structuring and organisation by the state. "By constructing a market, they won't make the contraband stop, but this market currently doesn't look legal, it doesn't look nice, it just doesn't", the head of a vendor's association said about the plans for a new market, "The government doesn't care about whether the products are legal, it's whether the market looks legal" (M59). An official

¹¹⁰ For the sake of illustration, this section is focussed primarily on Oujda. The same dynamics described here, the associations, the markets – down to the fire leading to one of the markets' reconstruction, are largely mirrored in Nador, the other major city of the Oriental region.

within the INDH programme tasked with the construction of the new markets described their primary mission not as the replacement, formalisation or legalisation of the smuggling economy, but as the “embellishment of the city” (M14). Here, the markets mirror a wider national strategy of the ‘sedentarisation’ (M9) of informal and roadside vendors (Saddougui 2014, 264).

Still, the new markets had distinct effects on the distribution networks of the local smuggling economy. Three main points stand out here. First, they provided a new, and significantly improved, infrastructure for the vendors. Aside from aspects such as the security of tenure that came with the legality of the new arrangements, particularly relevant for vendors interested in renting out, selling or passing on their stores, vendors mentioned the quality of the new infrastructure.

Second, the new markets drew the local vendors’ finances into closer contact with both the formal banks and the municipality. The agreements between the vendors and the various state entities involved in the markets’ construction around the sharing of the construction costs of the ownership structure of the market stalls required some vendors to open bank accounts (M34, M48). Similar to the Tunisian case, the agreements formalised and regularised their fiscal relationships with the municipality, while also clearly assigning the latter with responsibilities towards the vendors, such as the maintenance of the market structures.

Third, the construction of the new markets transformed the intersection between the vendors and local state institutions by elevating the role of market associations. Since the early 2000s, the number of associations has increased dramatically across the country, having become a preferred tool of the Moroccan state to structure its intersection with civil society, their legal status striking a balance “between an opening up toward civil society and the maintenance of ‘soft’ state control” (Bergh 2009). All market constructions and re-constructions in Oujda, alongside other development and social projects, were conditional upon the creation of an association representing the local vendors. In many cases, local state representatives appear to have been critical in the creation of these associations. Many heads of local associations mentioned having been originally encouraged to form their association by a local politician or state representative (M94, M54). For the creation of many of the new markets, INDH

employees themselves organised meetings for the local vendors so that an association president could be elected (M14).

Associations played an important role not only in providing input into the market construction but were also critical in generating the lists of vendors who would benefit from the new market – a point that, according to local administrators, commonly sparked conflict (M14). The heads of the associations became the main mediators both between the vendors and the local state structures and between the vendors themselves. Thereby, they were replacing the previous informal mediators in the markets, the *Amin Tujjar*, typically elderly and male vendors that had previously represented vendors and craftsmen, but had largely disappeared by the time of the market re-construction (M70, M91). Contrary to the *Amin Tujjar*, the heads of the market associations quickly became members of the local chamber of commerce, and, rather than a mere technical mediator within the market, began to function as local political entrepreneurs.

The foundation of formal civil society organisations presents a key similarity in the re-structuring of the intersection between state and informal traders in both Tunisia and Morocco in the context of the negotiation of the institutional regulation of smuggling. As demonstrated in the previous chapter, even if not all vendors are members, or broadly supportive of these associations, the organisational capacity of traders, legal status, freedom of expression and access to information can have a direct impact on the balance of power between traders and state structures. However, there are distinct differences between the politics of local associations around informal trade in Tunisia and Morocco.

Contrary to their Tunisian counterparts, none of Oujda's market associations seems to engage in, or in any way associate with, radical politics, public protests, or strikes. While the associations themselves are, like in the Tunisian case, not typically associated with political parties, their presidents largely are. As one association president highlighted, an association with a party is particularly beneficial for their role within the chamber of commerce, where it not only provides political allies and instant access to a full political programme (M93). Heads of market associations in Oujda that I spoke to do not seem to cluster around any particular party, however, but are associated with parties across the entire Moroccan political spectrum.

Unsurprisingly, association presidents in their discourse also largely follow the typical ‘red lines’ for accepted politics in Morocco – they are not openly critical of the king, and largely share the state’s discourse on development politics. As a result, many of the vendors perceive the market associations as associated with the Moroccan state. “Associations are part of the municipality”, one textile vendor complains, “they don’t do much for the vendors, and they don’t do much for us. It’s all political” (M58).

The reasons for this can be found in the wider political context of the associations’ work. Three points are worth highlighting here. First, in contrast to the Tunisian case, the influence of the leadership of the market associations in Oujda was derived less from their ability to leverage popular protest against the state, which they at no point threaten or participate in, but from being able to monopolise the intersection between local administration and vendors. In this position, they are also dependent on the state itself. While there are no laws prohibiting the foundation of multiple associations in one market, there is typically only one association that functions as a link to local state authorities.¹¹¹ In the case of multiple associations, one of the local representatives of the INDH explained, “the authority has to pick the most credible association”, adding that they “let the associations at first do their thing, but if that doesn’t go well the authorities will intervene” (M14).

Second, while Tunisia’s transition from authoritarianism to democracy significantly expanded the organisational capacities of civil society associations, this was not equally the case in Morocco. While the number of civil society associations increased in the early 2000s, they remained constrained in their possibilities by Morocco’s authoritarian political structure and the risks of arrests or crackdowns. And third, while the interactions between civil society associations in Tunisia in the immediate post-2011 era were precipitated by a shift in the balance of power towards local traders, the same cannot be said in the Moroccan context. As a result, the re-structuring of the intersection between traders and state in the Moroccan context was shaped more through top-down preferences than bottom-up pressures, resulting in the dominance of associations that – both before and after the 2013 border closure – remained largely

¹¹¹ While the Souk Melilla now contained two associations in 2017, conversations with the leadership of both associations as well as market vendors made clear that one of them had monopolised the intersection with local state structures, while the other was relatively small and largely reduced to voicing occasional frustration around the regulations for storefronts (M97).

conservative in their engagement with the Moroccan state. I will return to this point below.

It is important to note that the construction of these markets did not benefit everyone equally. Spaces were typically assigned based on the locations of the vendors in the previous market, primarily benefitting vendors who were already established in attractive city-centre locations. This left some of the vendors outside the market structure altogether, and others with poor locations within the new structures (M34). Some of the vendors in the old informal markets were unable to pay the financial contribution that came from the vendors for the move to the new market, or couldn't afford the rent. At the same time, some vendors suffered from the construction of another form of new, formal market. In 2007, Marjane, a Moroccan supermarket chain owned by the King's holding company, opened the first large supermarket in Oujda, with a space of 6.500 square meters (Zerhoudi 2007). In the two years that followed, Asswak Essalam, Metro and Carrefour followed suit. A study conducted by the Chamber of Commerce in 2009 found that more than 75% of vendors polled attributed a decrease in their sales to the new markets, with foodstuff, cosmetics, cleaning products and 'white electronics' being most severely affected (Oujda Chamber of Commerce 2009).

9.3.3 The Real Estate Market

One final change in income opportunities began before the new economic programmes in the Oriental, but has interacted with, and expanded through them. It involves the increasing diversification of the income of some of the members of smuggling networks through investments in the formal sector, particularly the real estate market.

One of the most notable differences between the investment strategies of large-scale informal traders in Tunisia and Morocco lies in the relative ease with which traders in Morocco appear to be able to manage their income through the formal banking system, the trust that they have developed towards the system, and their propensity to invest in formal projects. While some of the large-scale traders in Ben Guerdane have pursued formal sector investments, this has been comparatively limited, as many of the vendors and informal financiers still hold significant amounts of their money in

cash.¹¹² While some of this may be attributable to more rigid enforcement of anti-money laundering mechanisms in Tunisia, it is likely just as much affected by a general mistrust of both the state and the formal banking system. Attempts at legal amnesties to encourage the formalisation of black-market cash have largely been ignored by traders. One administration official in the Tunisian South went to meet with a variety of traders to encourage them to formalise their assets. “We even showed them the law. I had brought an accountant with me, but people just say ‘yeah, okay, it is written here, but who knows what the state will do’”, he recalls (T93).

In Morocco, there are strong indications that the movement of informally generated income into the formal economy, and hence the diversification by large-scale informal traders, is significantly more widespread. Regional bureaucrats are relatively transparent about this in interviews. “These people are not forbidden from investing in the formal economy here,” a regional representative of the Ministry of Commerce confirmed to me. Asked about enquiries on where the money originated, he replied: “No, absolutely not, that is not a problem. We will take their capital, no matter where it is from. It’s the same with bank accounts. These people, they are great merchants, when they put a lot of money in the bank, nobody will ask them where it comes from” (M47). Statistics support these accounts: even though Nador records a lower per capita income than the Moroccan average, it records a high level of bank accounts, containing deposits that are on average twice as high as the national average (Castro and Alonso 2014, 388).¹¹³

While a full discussion of the drivers of this difference in engagement with the formal banking system lies beyond both the scope and focus of this chapter, it is notable that remittances from Moroccans living in Europe have historically played a significant, and systematically encouraged role in developing the Oriental, and especially in its real estate sector. “People who went to Europe always thought they’d come back here, so they invested here. The banks here got a lot of capital from this”, a local city planner remembers (M33). As many remittances entered the local market informally, a structure of toleration of these transactions around remittances would be easily

¹¹² This is repeatedly evidenced through the ability of the Tunisian state to confiscate large cash deposits in the houses of traders, as in the raids mentioned in Chapter 8.

¹¹³ This contrast is notable given that Morocco has in recent years been lauded for its progress on money laundry issues, contrary to Tunisia, which was even briefly added to the EU’s money laundry blacklist (FATF 2018; 2013; Khang 2018).

accessible for informal traders as well. Other interviews have speculated that the toleration of these activities may be more strategic. “There is a chain, and the state is the weakest link in it, and it knows that, and otherwise there would be no investment anyway”, one local political operative argued (M31).

As a result, the decade before the fortification of the Algeria-Tunisia border already saw significant investments from informal trade networks in formal businesses and the real estate sector in the Oriental (M28, M29, M110, M62, M9). This included chic cafes that can be found across Oujda and Nador, lavish ‘wedding spaces’ outside of the cities and residential real estate (M31, M65). While investments from traders involved in the drug economy played a particularly large role here (M66), this has also included wholesale traders in licit goods and rural actors that had invested in land (M110, M111).¹¹⁴ A high official in Oujda’s centre of urban development reports that 10428 requests for new construction projects were submitted in 2011: “there is a lot of construction going on where you see people who made their money in contraband” (M78). Officials that I spoke to in the centres for urban development and local development agencies in both Oujda and Nador as well as the regional administration also directly connected a boom in real estate purchases and prices in recent years to investment coming from the smuggling economy (M33). As a former drug smuggler argued, the limited visibility of real estate ownership made it attractive: “So people mainly bought houses, like the houses over there, but if they had a nice car, that would show how much money they have” (M40).

While it is unclear whether hopes to capitalise on investments from the region’s informal economy played a role in the conception of the development projects that were implemented in the Oriental after 2003, there was a concerted effort to attract private capital from the region, and especially its diaspora. A UNCTAD report outlining investment opportunities in the Oriental region highlights that “the diaspora is an essential source of foreign capital, which regional governments are above all aiming to channel into productive sectors” (UNCTAD 2012). What is certain is that the investments in infrastructures, roads and transport that came with the post-2003 projects also benefitted the local real estate sector. In addition, it created direct investment opportunities. While the extent to which these have been taken up by

¹¹⁴ As Raineri (2017) recently demonstrated, this is not an untypical phenomenon in North Africa.

members of smuggling economies is difficult to estimate, a high-ranking official in the Agence Oriental explicitly confirmed that many of the new houses built in the Marchica project, a large-scale tourism project on the region's Mediterranean shore, had in fact been bought by local investors in order to launder money (M108).

The opportunities for economic diversification presented by the expanding real estate market and the new development projects were of course not equally relevant for all members of the local smuggling economy, but primarily benefitted those with larger capital reserves. This includes large-scale wholesalers of licit goods, wholesalers in the gasoline trade, and those trading in illicit goods, especially in narcotics.

9.3.4 Before the closure

Contrary to South-Eastern Tunisia, North-Eastern Morocco has not witnessed large-scale protests, a revolution, strikes, fleeing policemen or the effects of a civil war across its border in the past decade. At the same time, not all development projects outlined in King Mohamed VI's 2003 visit or the constitutional reforms of 2011 materialised quite as planned, or to everyone's benefit. However, as this section has outlined, the free trade agreements, the construction of new market infrastructures, the rise of market associations, and the opportunities for diversification created by the real estate market and the new development projects all had an impact on rent and income structures in the borderlands.

They decreased the reliance of some local actors on income streams generated through smuggling across the Algerian border, as they either supplied alternative sources of income or provided the infrastructure that would make it easier to gain access to new sources of income outside of the smuggling economy. At the same time, they restructured the intersection between local state structures and smugglers in a way that—contrary to the Tunisian case—did not coincide with a shift in the underlying power relations, largely following top-down reforms. Both dynamics became crucial when, beginning in 2013, the fortification of the Algerian-Moroccan border led to the collapse of various local smuggling activities, and removed one of the central rent streams that had integrated the region into the wider political settlement.

9.4 Connecting the Borderlands (2013-2017)

While the land border between Morocco and Algeria had been officially closed since the 1994 Atlas Hotel attack in Marrakesh, it had remained highly porous, as discussed in Chapter 3. Initiated by Algeria, its porosity decreased rapidly from 2013 onward due to a set of border fortifications, beginning with a trench dug by Algeria, followed by an electronic surveillance structure added by Morocco in 2014, followed by the construction of a wall by Algeria (Jaabouk 2013; Alami 2016). The construction of this infrastructure came hand in hand with an end of the general toleration of the local smuggling economy by members of the Algerian security services.

The collapse of the cross-border trade with Algeria made the old informal inclusion of Northern Morocco into the country's political settlement untenable, as a crucial rent stream was cut off. While the sections above have argued that the time between 2003 and 2013 created opportunities for diversification for some local actors, the years between 2013 and 2017 put these to the test. In fact, despite the collapse of one of the central rent streams that had informally incorporated Morocco's North East into the wider political settlement, no protest movements emerged that were comparable to the ones observed in Tunisia during periods of border closures. There are no indications that Morocco was in any serious danger of losing control over its northern border regions between 2013 and 2017.

This was largely due to two mechanisms through which rent streams were restructured after 2013, thereby altering the integration of the region into the wider political settlement. One, the adjustment of local traders to the new situation, by re-routing their supply streams through Melilla or Casablanca, or relying more heavily on formal income streams. And two, an aid programme provided by the Moroccan state. I argue that the changes introduced between 2003 and 2013, together with the projects launched by the state to support the borderlands after 2013, led to a formalisation of the political settlement, in which rent streams from Algeria were no longer fundamental to local stability, and in which the local economy was more directly connected to the Moroccan state.

9.4.1 Adapting

The border fortifications came as a surprise for local traders. Many told me that they had expected that porosity would increase again soon, and small protests in the border region were reassured by local authorities that the situation was temporary (M100). It was not. The increase in border fortifications dramatically decreased the ability of different smuggling networks to bring in goods from Algeria, especially those trading in licit goods and survivalist activities. While a study conducted by Oujda's Chamber of Commerce estimated that of the informally traded goods in Oujda in 2004, 40% of textiles, 72% of electronic goods, 73% of pharmaceuticals and 91% of home appliances had come in from Algeria (Houat 2004),¹¹⁵ goods brought in from Algeria had become a rarity by 2016. The gasoline trade almost entirely collapsed. While whole villages in the borderlands had spent their nights bringing thousands of canisters across the border, by 2016 only a few traders reported managing to bring across small quantities in rare windows of opportunities every few weeks (FG4).

Following the fortification of the Algerian border, some of the traders that had originally worked on the Algerian border began to supply themselves through Melilla, or seek employment as carriers across the border of Melilla (M29). Others constructed more complicated routes to Algeria: some Moroccan-made goods, including shoes, underwear and jeans that used to be carried directly across the border were now brought to Melilla, then shipped to the harbour of Malaga, moved to ships headed for the port of Ghazaouet in Algeria, where they are being imported and under-declared in exchange for a bribe (M34). Algerian dates, that were commonly smuggled across the border and sold in the markets of Beni Drar and Oujda were reported to have been re-routed via Melilla (M95).

More commonly, however, traders chose to re-supply via Casablanca instead. This was exacerbated by the wider effect of the economic crisis, as it decreased the local demand for the commonly more high-end products coming in from Melilla. In the words of a senior figure of a local market association: "People are not buying and not selling, many cannot afford to go to Melilla and buy things, so people prefer to go to

¹¹⁵ There are severe methodological issues with this study, however, its descriptive statistics should provide broadly illustrative of the large role that Algeria products played in the local informal trade structure pre-2013.

Casablanca and get Turkish products, because they are cheaper” (M48). For many of the textile traders, pre-existing commercial connections to Casablanca and the formalised market infrastructure established before 2013 eased this transition (M83). Even for traders that had to change their supply-structure or even their field of trade – some switched to electronics, which were still in relatively high demand, the new markets supplied an infrastructure and a well-located place of sale. While many of the gasoline vendors left the occupation entirely, others sought to also restructure their supply networks, buying from formal gas stations or from independent suppliers (M112).

Large-scale traders that had some capital available or had already invested in the formal sector, especially in the real estate sector and the hospitality and gastronomy sector before 2013 were able to build more extensively on these incomes. In one case, a former electronics trader in one of the city’s formerly informal markets built up a chain of formal stores. In another case, a former gasoline wholesaler built one of the 16 new formal gas stations that were opened in Oujda in 2016 alone (M102).

Still, opportunities to adjust were unevenly distributed. While large wholesale traders and some of the traders based in the formalised markets had some forms of capital savings, many of the traders from rural borderland communities, especially young men involved in the gasoline trade that I spoke to, appear to have had little to no savings, despite at time significant incomes, or found their savings swiftly eaten up waiting for the border to re-open (M54, M80, M100). At the same time, the connections to their former bosses and wholesalers was typically not strong enough to find employment through them. Some of the rural communities along the border, which had been buzzing hubs of exchange in 2013, faced abject poverty just a few years later – and found themselves, for the first time in decades, reliant on state support.

9.4.2 The Urgency Programme for the Border

The fact that the new border fortifications had deprived borderland communities of their income was not lost on the Moroccan administration. In the context of an ‘Emergency Programme for Development of the Borderlands’, a variety of projects were launched over the following years under the leadership of the regional delegation of the central state (M14). While a comprehensive budget for the programme was

never published, local media reported a budget of 271 Million Dirham for the first round of the programme, the majority of which was provided by the Ministry of Interior, with a potential 600 Million for its second phase (Ibrahimi 2016).

While the post-2003 reform agenda in the region, as discussed above, was not aimed at creating a formal economic structure in the borderlands to replace the smuggling economy, this had become the stated goal after 2013. “We cannot for ages leave a border with an informal economy and then all the sudden when it closes not help them”, a local MP phrased it (M95). A high official in the regional administration spoke of a “replacement” strategy (M4). Others were more explicit. “A key goal is to create an infrastructure that will keep people in the borderlands, as we have already suffered enough from rural exodus,” a senior official in a municipal organisation argued. “If they come here, they will build something anarchic that will not be good for the city” (M78). A high official in the Agence Oriental struck a similar tone: “If we do not do this, these people will move to Casablanca, or to Tanger, or they will steal” (M108). An exodus from the borderlands had already begun. “A lot of people have abandoned their houses here and moved to the city, because they couldn’t survive out here when the border closed,” a resident of a borderland community noted, “when the border closed, I sold the two chickens that I had, just to feed my children” (M100).

Given the concern about a rural exodus, it is unsurprising that the development project for the borderlands focused on rural projects, and primarily included agricultural projects, and projects aimed at the so-called ‘social and solidarity economy’. Key projects included the provision of irrigation for agricultural land in the border area, the encouragement of almond and olive cultivation, and government support for local small-scale agricultural projects focussed in particular on animal rearing (M71). The programmes focussed explicitly on 14 districts along the border that had been judged as most affected by the collapse of the smuggling economy, with priority given to Beni Drar, Beni Khalid, and Angad (M82).

Crucially, like the 2003-2013 reforms, these programmes not only aimed to provide aid but also took the opportunity to re-organise the intersection between the state and local communities. Development associations played a key role in managing the interaction with communities and negotiating access to state projects, and it was clearly communicated to borderland communities that aid would exclusively be

provided to cooperatives (M82). Agents from development agencies and local state administrations visited the borderlands and advised the formation of cooperatives. According to ODECO, the relevant administration, between August 2016 and 2017 alone, Angad saw 75 new cooperatives, Beni Khalid 80, and Beni Drar 90 (M82).

At the same time, local state agencies began the process of integrating borderland settlements into the regional infrastructure network and land-use plans. While many of the settlements near the border had been built informally and without permission, ‘plans de redressement’ were created to retrospectively formalise their creation (M78). Roads and water lines were extended – quite literally, borderland settlements were connected to the formal infrastructure of the Moroccan state. By 2015 borderland settlements near Oujda began to be connected to the national electricity grid, as a senior official in the ONE confirmed that despite the high costs, their inclusion had become a “political priority” (M89). “Social stability and economic stability were the key concerns here,” a senior official in a local planning office argued, “if things are going well, quiet, that is what matters” (M78).

While proponents of the emergency programme praised its strategic vision, many practitioners interviewed have expressed scepticism with respect to its feasibility and sufficiency. A senior official tasked with the implementation of some of the key agricultural axes of the programme summed up commonly expressed scepticism on the feasibility of agriculture as an alternative to smuggling. “Agriculture is, of course, the dominant sector here, but can it really absorb this unemployment? We have proposed projects to the youth, but so far very little has been taken up. To change the activity of someone who did contraband before, that is difficult. They are not ready for agriculture.” He continued: “Agriculture takes time, you need years to see the profit, that is hard for these youth that are used to immediate profit. Changing a mentality is hard” (M80).

Many of the newly founded cooperatives expressed significant frustration with the support that they were receiving through the programme. Implementation was slow – the first round of animals was given out to cooperatives in May 2017, years after the border closure. The number of animals given out frequently appeared to have been insufficient as a sustainable source of income (M96, M100, M101, M102). In addition, with savings run down, many of the new cooperatives struggled to afford food for the

animals – while there was a restriction on selling any of the animals, this was not always followed. “The program is ineffective, because of the distribution problems, and because of the small quantities,” the head of a local cooperative argued (M101). The connections to the electricity and water grid also faced difficulties locally, as the costs for individual households to connect to the network were often prohibiting.

While the rural communities along the border were connected to a new, formal and legal, income stream, the connection was tenuous, slow, and often confusing. At the mercy of a new, formal structure that was just developing, new to them, and characterised by state mismanagement and scarcity, many of the local communities were struggling to adjust to the new situation. The following chapter will return to this issue at length.

9.5 Conclusion: Stability and Fragility

This chapter has followed the quiet restructuring of rent-streams in the Moroccan North-East and their effect on local actors’ abilities to adapt to the collapse of smuggling networks that traded with Algeria. Contrary to the experience of Southern Tunisia, North-Eastern Morocco saw a reduction of the role of smuggling rents even before 2013, and after 2013 a conscious and targeted attempt through state programs to replace informal rent streams through formal ones. As a result, while a collapse of smuggling activities along the Tunisia-Libya border for 4 years would most likely pose a serious threat to the stability of Southern Tunisia, as Chapter 8 has argued, the stability of the ‘Oriental’ was not threatened. A smuggler of fabrics working through Melilla summed up the lack of large-scale unrest after the collapse of the Algeria routes succinctly: “they found alternatives” (M76).

To a degree, the resilience of the Oriental to the border closure can hence be traced to the formalisation of its incorporation into the wider political settlement – however, important caveats remain. The formalisation of rent structures in Morocco’s North East was partial – trade through Melilla still existed, narcotics trafficking appeared less affected by the border fortifications, and although their supply network had shifted more towards legal trade, the regulatory structure around the city markets remained of a hybrid nature, as described in Chapter 6.

As this chapter has outlined, the decreasing role of smuggling rents was also not the result of a strategic choice by the Moroccan government. It only became a conscious aim of development engagement in the region after 2013, when external pressures had led to the collapse of a range of local smuggling activities, and raised the prospect of widespread starvation, unrest and rural exodus in the borderlands without a replacement strategy. Even then, replacement was costly and fragile. The situation led the Moroccan state to undertake significant investments in infrastructure and agricultural projects in the borderlands that it had not been willing to undertake while smuggling rents were still high. And yet, access to these new income streams was not uniform and not always sufficient, still leaving the region in a severe economic crisis. As the following chapter will discuss in more detail, pockets of poverty and disconnection developed especially in rural borderland communities. Many of the people interviewed for this project expressed serious concerns about the future of the borderlands. “This place is like a hidden bomb that nobody sees, and that is ready to explode,” a volunteer in a development association in a borderland community near Oujda argued (M94). “If we don’t employ these people in the next 5 years, something really bad will happen”, an Oujda resident made a similar point (M22). In the words of the head of an association in Nador: “The money here needs to reach the people before it is too late. And actually, it is too late. Too many of them have died already in the ocean, on the way to Europe” (M26).

As this chapter has discussed, the past decade in Morocco also saw a transformation of the intersection between the informal economy and state structures. Here lies a crucial contrast to the Tunisian case. In both countries, negotiations around the regulation of smuggling and distribution of rents alongside nationwide changes in the legal framework for civil society organisations have led to the establishment of more institutionalised channels of negotiation between state representatives and informal traders. In Tunisia, this coincided with a shift in the underlying balance of power away from a temporarily weakened state, alongside new space for civil society organisations in a democratising national institutional structure. This allowed traders to establish organisations that were less dependent on the state or directly co-opted by it, and at least momentarily leverage organisational capacity and local knowledge to shape regulation through bottom-up demands, albeit within the constraints of the still primarily informal integration into the political settlement. Following 2011, Morocco

saw reforms rather than a revolution. Contrary to the Tunisian case, the re-structuring of the intersection between smugglers and state in Morocco occurred in a context in which their integration into the political settlement was increasingly reliant on formal rent streams, and where the state had maintained a high enforcement capacity as well as a clearly authoritarian context. While traders in the borderlands frequently expressed understanding and desire for collective action and public protests, concerns about state crackdowns against protesters were common: “We are scared of prison. Everyone watches each other, everyone is afraid, if someone is planning something, they will catch them, because someone will have told the police” (M94). As a result, the re-structuring of the intersection between state and traders was significantly shaped by top-down state preferences about organisational forms and became increasingly populated with political entrepreneurs whose authority is at least partially dependent on their relationship with the state, mirroring the discussion of rents and elite management in Chapter 7. Contrary to smugglers’ organisations in Tunisia, their Moroccan counterparts have not engaged in strikes or roadblocks, public mobilisation or civil disobedience. In further contrast to the Tunisian case, the ability of local state structures to extract revenue from the traders has not suffered despite the economic crisis in the Oriental, and despite the increasing need for traders to increasingly shift their supply chains to legal imports.

Together, the previous chapter and this chapter provide case studies in change and continuity in the role of smuggling in the political settlements of Tunisia and Morocco. Tracing negotiations of the regulation of smuggling in the context of changing national and regional politics, these chapters have highlighted not only the importance of the underlying balance of power and the wider political and institutional context but also of the structures at the intersection between smugglers and states. Crucially, these discussions suggest that in order to understand how borderlands are incorporated into political settlements it is not sufficient to ask whether they are primarily reliant on formal or informal rent streams, or under which terms these rents are distributed. Instead, crucial questions remain around who shapes and negotiates the terms themselves, how different groups influence these negotiations, and how they manage to adapt to different and changing forms of incorporation. As the following chapter will discuss, a focus on these issues provides an important corrective to the discussions of stability and incorporation, by pointing towards dynamics of fragility and exclusion.

Chapter 10: The Valley and the Mountain – Lived Political Settlements

10.1 Introduction

We are in Oujda, Morocco, in early 2017. The border with Algeria, open terrain just a few years ago, is now flanked by a fence, a ditch, and a wall. The nights along the border, which used to be buzzing with activity, have become quiet. I'm in the car with Ali¹¹⁶, a former smuggler of prescription drugs. When the fences went up, Ali used his savings and connections to start a small enterprise. Later in the evening, in a house not too far from the border and surrounded by his family, he proudly presented some of his inventory and paperwork. He was a 'formal' man now – Ali managed to adapt to the changing times.

But not everyone did. As the evening falls, we are driving out of Oujda to a small field on a hill, overlooking the borderland. Ali still comes out here sometimes, looking at his former place of work. He is not the only one: when we arrive, there are about ten other cars parked, young men in the front seats, interspersed on the field, smoking, facing Algeria. Many of them are former gasoline smugglers. They have little to do these days – their trade has all but disappeared. While many of their families started formal cooperative projects that the state encouraged in the borderlands to ease the crisis, many of the young men did not get involved.

“Look at them,” Ali begins, “they were born here, and when they were born, they were oriented towards the border. And now they sit here, still watching it” (M40). There is in the cars on this field, as in many of the conversations with young men in Morocco's borderlands, an uneasy sense of a group suspended in time – waiting for the border to open again, for smuggling to resume, without any real hope that it ever will.

Chapters 5, 6 and 7 have described the stabilizing role that smuggling economies can play by informally including peripheral regions into North African political settlements, and how institutional rule-based arrangements contributed to structuring and regulating them. Chapter 8 and 9 have presented evidence of continuity and

¹¹⁶ Name has been changed.

change in the borderlands of Tunisia and Morocco, as the role of smuggling economies in these political settlements was challenged, re-negotiated and re-structured between 2003 and 2017. This chapter now takes a closer look at how the people in these borderlands have adjusted to changing settlements, changing rules and political regimes, how they have mustered different resources in order to manage to influence the rules of the game or prosper under them.

In this, the chapter aims to contribute to political settlement analysis by focussing on what have commonly been two weak spots in its analysis. One is the conceptual ambiguity of inclusion, the other its analysis of the role of comparatively powerless groups. Both are particularly relevant in the context of informality.

While inclusion has become the dominant normative concept in thinking about political settlements (Kelsall 2016), it remains sparsely theorised, particularly on a micro-level. As Chapter 2 has noted, the increasing focus on inclusion as a development goal has been increasingly critiqued by scholars pointing to ‘adverse incorporation’: contexts where the origins of economic marginalisation lie not in exclusion, but the terms of inclusion (Du Toit 2004). This observation is particularly relevant to informal economies, where development and ‘formalisation’ typically manifest as inclusions into new regulatory systems. As Meagher and Lindell (2013) have pointed out, while arguments for the ‘inclusion’ of informal economic actors often sound consensual and uncontroversial, they are “obscuring the role of struggles for and against inclusion, and divisions or alliances unleashed by it.” Rather than homogeneously beneficial, inclusions in new formal regulatory systems can create divisions, winners and losers among informal actors, and consolidate or fragment informal forms of political organization. Consequently, the contexts in which it is advantageous or adverse for groups to be informally included in political settlements requires further analysis. What are the benefits and drawbacks for different actors of formal and informal ‘inclusion’? Are more formal political settlements necessarily more inclusive, or more able to contain local demands? And to which degree are local groups in peripheral or informal contexts able to shape the terms of their inclusion? This directly connects to the second point.

Due to its common focus on elite bargains and ruling coalitions, there has been comparatively little work that examines how more marginalised groups manage and

navigate their position in changing political settlements, particularly if they are included informally (Parks and Cole 2010, 7). Consequently, the holding power of informal organisational structures, in particular, is under-discussed: when do informal organisations function as centres of power outside the formal structures, and when as relatively powerless margins? What determines the ability of different informal organisations to affect political settlements, or adapt to changes? Meagher points out that “the ability to foster inclusive economic relations from below is not a product of popular agency per se, but of the specific informal institutional repertoire of a particular locality.” (2013, 231) In the context of the different groups and networks in the borderlands, the question then becomes: how do different groups access these repertoires, what determines their ability to do so, which forms of capital and organisation are being mobilised, and to what effect?

This chapter examines the role of informal institutions in processes of inclusion and adverse incorporation by comparing the experiences of gasoline and textile smuggling networks in Tunisia and Morocco. Despite experiencing very different challenges and changes in the respective larger political settlements, networks trading in textiles in both Morocco and Tunisia have fared relatively well in recent years: they have been able to formalise their status in ways they found beneficial, have maintained or gained access to well-organised market structures, been able to adjust to changing regulatory environments, have established associations and intermediaries with local and regional state institutions. At the same time, networks trading in gasoline in both locations have been unable to establish associations to engage in negotiations with the state. Struggling to be able to influence their environment, or to adapt or diversify to changing environments, they have been hit hardest by changing rules and new border fortifications. While by 2017, gasoline networks in Tunisia were facing complete collapse, this had already happened in Morocco, where their former traders were now struggling to adapt to a more formal form of inclusion.

This chapter argues that a more formal incorporation of these networks into their wider political settlements has had heterogeneous effects on smuggling networks. While textile networks were able to formalise on their own terms, the formalisation of gasoline networks in Northern Morocco in particular, more closely resembles adverse

incorporation.¹¹⁷ The chapter argues that differences in organisational capacity, capital and institutional history have left members of different networks with highly heterogeneous abilities to set the terms of their ‘inclusion’. Crucially, even in the context of smuggling, being able to negotiate their relationship with the state has been a key factor in determining success and failure for these networks. The experiences of these networks also highlight the diverse effects of inclusion through informal institutions (*vis-à-vis* more personalistic forms of clientelism). In the case of textile networks, informal regulatory systems were accompanied by processes of negotiation which allowed the building up of resources, connections, organisational capacity and respectability, which eventually contributed to the negotiation more formal forms of inclusion on their own terms. By contrast, gasoline networks did not see their informal inclusion accompanied by these processes and remained completely unconnected once the original institution collapsed.

Overall, the chapter therefore argues that the key question at the margins of political settlements is not who is included and who is excluded, but how networks organise access to the resources that allow them to negotiate inclusion on their terms, and to adapt when the terms of their inclusion change. Rather than formality or informality, it is these ‘terms of inclusion’ and access to their negotiation that determine the inclusiveness of a political settlement. An analysis of these terms requires a close examination of the micro-dynamics of how people engage with and navigate the institutions that structure their lives – an analysis of ‘lived’ political settlements.

The remainder of this chapter is made up of three sections. The first traces the recent history of gasoline networks in Tunisia and Morocco. The second examines how textile smuggling networks have fared in the same context. The third section builds on comparative elements between the two networks and two localities to draw out key dynamics that inform our theoretical understanding of inclusion and informal political settlements.

¹¹⁷ Both textile smuggling and gasoline smuggling in both locations is best conceptualised not as one network, but as a set of networks made up of different groups/families/businesses that broadly engage with the same formal and informal institutions and work with the same structures of access, supply, demand, marketing etc. As I am interested here in the effects of these institutions and structures, I am interested in them as sets of networks, as well as groups within them.

10.2 Gasoline

The experience of gasoline smugglers in Tunisia and Morocco over the past decade provides a variety of lessons on the challenges of both formal and informal inclusion, and difficulties that groups face in both negotiating and affecting their position in political settlements. In order to trace the experience of gasoline traders under changing political settlements in the past decade, it is important to first note some of the central features of this network.

10.2.1 Features of the Gasoline Networks

As the previous chapters have noted, in both Tunisia and Morocco, gasoline smugglers are among the least organised, centralised or coordinated smuggling networks. Their points of sale are more geographically dispersed than those of the vendors operating in market structures in the city centre. In both cases, points of import are numerous, and the points of supply on the other side of the border are diffuse, involving a large number of gas stations and informal suppliers.

The gasoline trade does not necessitate extensive cross-border connections, as traders typically buy from formal retail petrol stations across the border (T105, T106). As a result, gasoline traders in both countries often work by themselves, or with direct members of their family. Even if gasoline traders work alongside one another in companionship, economic partnerships are rare. “You don’t want someone else to get the profits that you are getting,” a Moroccan gasoline trader notes, “if you are in a partnership, someone else will get half of the profit, but you want all of the profit” (M102). The most common units of organization are either families or wholesalers who employ a range of transporters that function effectively as self-employed sub-contractors.

While gasoline traders are not an entirely homogeneous group, the network’s ease of access and low capital requirements, as noted in Chapter 7, have attracted sections of the borderland populations that had difficulty accessing other networks. In Tunisia, ease of access and low capital requirements have made gasoline smuggling one of the most attractive employment options for young men in the borderlands (T106, T94, T95, T38). Recent years also appear to have seen a significant group of entrants that

had been pushed out by competition in more lucrative networks, such as informal money exchange, where market power got increasingly monopolised by larger players (T94, T95). While the gasoline trade in Morocco shares these characteristics, it also maps upon a rural-urban distinction, as large sections of gasoline traders and vendors hail from the rural borderlands.¹¹⁸ During the trade's heyday, entire villages re-located closer to the border to take advantage of the trade (FG7). Here, too, low barriers to entry, especially with regard to information and training, appear crucial. As one rural gasoline smuggler recalled: "we lacked the knowledge for other things, if you trade other things you need to know them, about the quality, how to sell them, where to sell them. We didn't have that" (M54). Smugglers in rural areas often reported starting work on the border together with their family at young ages, leading to widespread concern about the educational levels of many of the traders in rural areas (M111, M9, FG4). No similar geographic pattern was discernible in Tunisia, likely due to the fact that the immediate borderland is almost entirely uninhabited.

10.2.2 Inclusion Dependent on Institutions

In summary, the easy access to the gasoline trade has shaped the profile of many of its traders: many have entered the networks with little social or economic capital, and in Morocco frequently with little experience of life in the city. The loosely networked structure of the trade and its geographic dispersal has left it without larger organisational structures. Both aspects have characterised the sense in which the gasoline traders were informally 'included' in the political settlement in Tunisia and Morocco up until 2014. Essentially, their inclusion was entirely reliant on informal institutions through which they were able to access rent streams. For the gasoline smugglers in Tunisia, their income was not dependent on relationships or skill, but on the existence of an agreement at the Ras Jedir crossing that allowed them to import subsidised gasoline into the country with low bribe rates. For the gasoline traders of Northern Morocco, the same was true for the institutions that regulated the trade along the closed border, as discussed in the previous chapter.

¹¹⁸ This is also evidenced by the selection of the communities in the borderlands that are prioritised in the emergency aid program by the Moroccan state after the border closure, as discussed in Section 9.4.2

While the impersonal nature of these institutions and low barriers to entry ensured that access to these arrangements remained open for everyone, they also contributed to a form of inclusion that did not foster economic networks or skills, thereby creating enormous dependence on these institutions themselves - institutions over which the traders typically had little control. In the case of Morocco, many of the gasoline traders I spoke to remained unsure of how these institutions had emerged. When bribe levels for many traders dropped sharply in 2011, traders speculated about the King having heard about their hardship, but did not have any firm sense of how these agreements were negotiated (M84). While Tunisian gasoline traders usually had a sense of who was negotiating these arrangements, they were themselves entirely excluded from these negotiations. As discussed in Chapter 8, the negotiation process for the agreements at Ras Jedir included civil society leaders, wholesale traders of licit consumer goods, representatives of the vendors in the Souk Maghrebi, but no gasoline traders.

In both cases, the exclusion of gasoline traders from these negotiations appears closely related to the structure of their trade, with both the lack of larger organisational forms and the lack of connections with traders across the border and government officials making it difficult to be recognised as a relevant negotiating partner, be informed about negotiations, or force an inclusion into the negotiations. As gasoline traders lacked associations, they lacked both obvious intermediaries that could negotiate with state agents, and the capacity for collective action to support their demands. In addition, they lacked privileged access to political figures or to information on changing political and economic environments across the border that they would have been able to leverage with state agents. I will expand on this below when examining the case of textile traders.

However, lower organisational capacity and lack of cross-border connections were not the only reason for the traders' exclusion from these negotiations. Lower barriers to access had made gasoline smuggling attractive for groups with lower socio-economic backgrounds, which were seen with some suspicion by the traders of other networks. Throughout the interviews conducted with bureaucrats, civil society and or traders from other smuggling networks, gasoline smugglers have commonly been framed as simple, unruly, or cognitively inferior. Gasoline traders themselves recognised their 'image problem', but framed it as an issue of communication and education.

In Tunisia, one of the negotiators of the agreements for the Ras Jedir border crossing, himself a wholesale trader of consumer goods, argued that there were no gasoline traders represented in the Organisation for Tunisian Libyan Brotherhood, or at the negotiations, because “if we had a gasoline trader, they would only use their position to advance their own interests” (T105). A civil society activist involved in the negotiations argued that there were no gasoline traders because “this is a different type of communication, it’s a different language. They haven’t been taught the discourse of politics” (T66). Gasoline traders themselves highlighted difficulties with both access and communication. “Talking to the state? That is just for the bourgeois, not for us. The poor always suffer,” one gasoline trader argued. “There is no occasion for us to talk to them, if we talk, they will just not listen” (T94).

These discourses were closely mirrored in Morocco. The leadership of the market association of the Souk Melilla highlighted that their educational status was a crucial reason that they had been better able to organise and negotiate (M48). “If the gasoline traders get an association, who will represent them? They do not have anyone who could represent them,” a vendor in the same market argued, “they are used to sitting in the street, if you give them a proper place, they will still sit in the street” (M83) A regional government official argued that “we need to work on their mentality, on their culture, on their psychology... they need to be better educated... right now, they are just not logical” (M61). Others identified a problem of “culture” (M51), “mentality” and “spirit”.¹¹⁹ As in Tunisia, Moroccan gasoline traders themselves pointed to their lack of connections, similarly highlighted educational differences, and a lack of knowledge of the region’s urban centres.

10.2.3 Tunisia: Facing Changing Institutions

As their inclusion into the political settlement rested on the functioning of specific informal institutions, rather than personal networks or specific skills in the trade, the dependence of gasoline traders in North Africa on these institutions was substantial. Their breakdown then directly threatened their livelihoods. Without access to negotiations, the options to react to a deterioration of the arrangements that determined their livelihoods were limited. To the detriment of gasoline traders, breakdowns of

¹¹⁹ From the author’s field notes, Oujda, 05.06.2017.

these informal institutions can be observed in both case sites in recent years, largely triggered by deteriorating economic situations in Algeria and Libya.

The smuggling of gasoline in Tunisia had expanded significantly after the 2011 revolution, as state security forces withdrew from the borderlands and the fall of the Ghaddafi regime opened spaces for new actors in Libya. However, by 2016, years of civil war had put significant strains on Libya's economy (Eaton 2018), and gasoline smuggling stood at the heart of increasing public concern about the looting of the country's resources. As discussed in Chapter 8, gasoline smuggling across the border with Tunisia¹²⁰ had been specifically targeted by activists as it was seen as a relatively weak trade that was politically unconnected, and had not forged relationships with actors that had access to means of violence (T114). Tunisian negotiators confirmed that by early 2017, the reduction of gasoline smuggling had become the main demand from their Libyan counterparts (T102). By mid-2017, both the agreement governing the Ras Jedir border crossing and the structures along the desert routes had changed in a way that dramatically reduced the quantities of gasoline that could be brought across. Gasoline traders remained excluded from these negotiations, that had now become primarily about their trade. Once the agreements changed, many gasoline smugglers adopted a wait-and-see attitude, hoping that the agreement would change again in their favour.

When this did not work, their options were limited. Within a short period, they had not only become factually excluded from the political settlement but also lacked means to communicate with state interlocutors. As a result, gasoline traders were instrumental in supporting a road-block at the Ras Jedir border crossing in 2018, restricting commercial traffic in an attempt to get their message heard.¹²¹

Two things are noteworthy here. First, their demands were not just in reference to smuggling, but also called for state investments to generate alternative economic opportunities to the smuggling economy. Second, even though their difficulties primarily stemmed from Libya, their demands were aimed at and communicated

¹²⁰ As opposed to the smuggling of Libyan gasoline towards Malta and Italy, which was operated at a significantly larger scale, and by actors that were seen as more influential and well-connected politically. On this, see Eaton (2018; 2019).

¹²¹ While this lies beyond the primary empirical scope of this dissertation, which ends in late 2017, I have included a brief discussion of it here, as the build-up to these protests began in 2017, and they illustrate the situation of the traders in 2017.

towards the Tunisian state, demanding recognition, support and intercession (Gallien 2018). The first two demands, in fact, called for the adoption of their positions by the recently formed municipal council, as well as the opening of negotiation channels by the central state (Ibid). These suggest the recognition of their current exclusion from the political settlement and their dependence on a fragile situation in Libya, alongside a desire to build modes of inclusion that contained more stable relationships with the Tunisian state. This sentiment had been echoed throughout the research for this project and is mirrored by the textile networks discussed below.

The sit-in was largely unsuccessful. While renewed negotiations over the procedures at the border crossing took place, their demands were not met, and the re-opening of the border was accompanied by altercations with security forces and further violent unrest in the city (Al-Talagh 2018; France24 2018; Jawhara FM 2018). By mid-2018 gasoline trade was still highly restricted. Gasoline smugglers remained largely shut out of the political settlement in which they had been informally included, and were facing an uncertain future.

10.2.4 Morocco: Informal Exclusion, Formal Incorporation

A similar situation, albeit perhaps even more dire, had reached their Moroccan counterparts a few years earlier. As discussed in Chapter 9, Algeria began fortifying its border with Morocco in 2013, reacting in part to the loss to the national income caused by the smuggling economy, and that had become harder to sustain in the context of low oil prices. Dependent on moving large quantities of goods across the border, endowed with low capital or technological capacities, and unable to re-route their supply via Melilla, gasoline networks were hit hardest by the new fortifications. They represented – by design – a collapse of the regulatory arrangements, structured by a set of local informal institutions, that had included Morocco’s gasoline vendors into the larger political settlement.

The features of the gasoline network, once conducive to the inclusion of poor rural youth with minimal barriers to entry, now actively hindered their ability to adapt to the new situation, and to navigate their re-inclusion into the political settlement. While there were some small attempts at protesting the border fortifications, the geographic

spread of the traders, their lack of connection with other networks or political allies,¹²² the authoritarian context and Algeria's determination to eliminate the gasoline trade all limited the effectiveness of protest as a strategy.

Most of the members of the borderland focussed on finding a new income. The lack of strong links between suppliers, transporters, and wholesalers meant that most members of the gasoline trade were looking by themselves, and were not typically employed by their former bosses. Their rural origins, and the lack of connections to commercial actors across the border, which had not been a problem under the old political settlement, and in the case of a location close to the border even presented an asset, had now become a hindrance to inclusion in the new settlement. Their limited knowledge of the city as a commercial space, their lack of connections across the border, and their lack of experience with business environments made finding other work difficult.

A former gasoline trader from the borderlands who had actually managed the transition to a stall at the Souk Melilla observed the benefits for those gasoline traders that made a larger effort in building connections across the border: "Some of the people who were working at the time, they would have interactions with lots of people, they would go to Algeria, talk to people about the price, then take the gasoline to Nador, even Casa[blanca]. And the people who did that, they also saved, and they are in a better position now" (M35). He argued that his having spent some of his youth in the city was a crucial factor for his relative success: "I know how the city works, how to talk to people, to customers. The people in the border they don't know the city, they don't know how to get people to buy things" (Ibid.). He continued: "They don't know how to communicate with people. They wouldn't know how to talk to people in a shop, They look different, too, their haircut, the way they dress" (Ibid.). One of his colleagues also emphasised the importance of connections over formal education: "The people who worked with Melilla, they may not be very educated, but they know how things work, they got into the city, they could contact, they knew how to adapt. But these people who stayed in the countryside, they don't know how to work here, they are struggling" (M39).

¹²² There are important parallels of the argument presented here to the discussion of informal political voice and political alliances in the context of the informal organisations in Meagher (2014).

As Chapter 9 noted, the Moroccan state swiftly realised that the political settlement that had informally included its North-Eastern border population had become untenable, and that it needed to react in order to avoid unrest in its borderlands. Algerian fortifications put the continuation of a key element of the previous settlement, smuggling rents, beyond the control of the Moroccan authorities. In the following years, the Moroccan state set about building the structures to include the borderlands into the formal political settlement, through new formal development programs and initiatives, new roads, water lines and electricity grids.

These programs represented a re-structuring of the political settlement from ‘above’ – they were designed and implemented by state institutions in relation to a population with which they previously had little engagement. Despite references by state officials to ‘participatory approaches’ (M4, M12, M14), borderland communities interviewed for this project often did not feel consulted (M110, M111, M102, M103). The speed with which the programs were deployed in conjunction with the limited contact between state institutions and these communities prior to the crisis made a real negotiation of these programs unlikely. To rural borderland communities, their new inclusion in the political settlement was largely presented as a “take it or leave it” offer. These dynamics created winners and losers in Morocco’s borderlands. Many former gasoline smugglers, for whom many of these projects were originally designed, struggled with the new situation. With respect to three key dimensions – connection, organisation, and legibility – they found themselves side-lined in the new political settlement, with little sense of any genuine inclusion.

As gasoline traders were primarily connected to the previous political settlement through a set of now defunct informal institutions, their inclusion into a new formal political settlement and the implementation of development projects in the borderlands necessitated the creation of new structures of communication and new interlocutors. State institutions held meetings in the borderlands and encouraged the formation of local development associations, on which they drew alongside local political representatives. “Before there was no contact. The administration didn’t want to have any contact, and the youth also, they are illegal, they don’t really want to talk,” one local bureaucrat recalled (M80). The creation of new connections then “was very difficult, because there was no understanding” (Ibid.).

The role that local politicians and administrators played here is notable: the origin story of almost every local developmental association in the borderlands that I spoke with began with a local or regional politician speaking to them and suggesting the formation of an association and offering access and support (M54, M94, M96). This offered opportunities for civil society activists and political entrepreneurs, but only for very few of the former gasoline smugglers. “We try to connect them,” the head of a local association recounted, “because they are not used to working with the state” (M93). The success of this was limited – the dominant impression among the borderland population was one of dis-connection.

With new projects also came a re-shaping of the organisational structure of the borderlands according to the preferences of state institutions. While organisational structures of gasoline traders had been limited prior to the crisis, state institutions providing economic assistance in the borderlands after 2013 categorically required recipients of any support to fit into a new organisational form – that of the cooperative. Again, local politicians and administrators visited borderlands, encouraging the formation of cooperatives. The formation of family-based cooperatives and female-led cooperatives, in particular, was advocated as particularly desirable. “The Jiha (the regional-level administration) came here and said that you need to set up cooperatives, and we will help you,” a borderland resident remembers. “Ideally, you should be a family, because that will be well organised. Make groups of 5 and form cooperatives” (M94). “They prefer working with women,” border resident argued, “because they feel that women are more truthful and that they are easier to work with” (M96).

Various bureaucrats involved in these projects directly confirm this observation. “If we work with women, we are sure to get good results,” a leading official at the Agence Oriental told me, “women are more serious” (M108). “For me, right now, it’s the women that do the work”, an official who is leading agricultural projects affirms and highlights the utility for the state of re-structuring rent streams in the borderlands towards women: “The push towards women here is logical, they look for work, not for profit. They are ready to work to get out of the house. For me, it is the women that change a bit the situation here, especially the young women. The women are ready to work for cheaper, they are looking to develop themselves. For the men, the priority is money” (M80). One of his colleagues agrees: “it is easier for us to work with women because they are more reliable and more durable. They last for longer, they don’t quit,

while the men, they quit more quickly. Women are more satisfied with a small profit, while the men, they want larger profits, and they want it more quickly” (M98).

The shift towards working with women was not limited to cooperatives. A collaboration between a textile manufacturer and the regional administration saw the planning of a factory aimed specifically at employing female labour from the immediate borderlands. A senior official argued that the focus had shifted from looking to create jobs for former smugglers to creating employment for someone in their family, “maybe their sister” (M4). The focus on women in these development initiatives represents the creation of a new intersection between the Moroccan state and its borderland communities based on the explicit preferences of the Moroccan state. By encouraging female intermediaries, Moroccan state agents consciously selected actors that had lower expectations of income or benefits, and thereby effectively lowered the costs of organising the survival of borderland communities and avoiding rural flight.

Through these development initiatives, the gendered structures of organisation and income in the rural borderlands have been partially reversed. During the heydays of the smuggling trade, access to income streams was largely restricted to men. “The women, back then, they were princesses, they got their money from their husbands”, a borderland resident remembers, “it is known in the rural areas that women stay at home” (M102). The new development initiatives not only provided women with incomes but also put them in charge of many of the newly created cooperatives – employing the former (male) traders. “Their sisters and mothers are the ones doing the jobs, they make bread and sell it, they are feeding their husbands and sons,” the (female) head of a development agency in the rural borderland argues. “The government is trying to focus on women, but while doing that, they have forgotten everything about men. This will create problems here, because now the men in this region, many of them are on drugs, and they are stealing things now” (M94). While some female heads of cooperatives were concerned that the changes in gendered responsibilities would lead to frustrations and tensions within the communities, others were more optimistic. Almost all of them, however, reflected with concern on the fact that the new organisational structures had not only left their male family members with low motivation, but also with little to do, and expressed concern about their situation (M96, M22, M94, M63).

Finally, the new institutional structures brought new challenges of legibility. Many borderland residents struggled to understand the institutions they were now required to interact with, mistrusted them, or lacked the literacy to comply with them. In the words of a regional member of parliament: “These people are not educated to work with rules, to work with the formal economy, they are now in a system that is new for them. We need to accompany them on this and encourage them” (M95). Heterogeneous ability to navigate these institutions had profound influences on who managed to gain access to the formal rent streams made available through development projects.

Once again, especially former gasoline smugglers were in a difficult situation. In early 2017, I frequently visited the local ODECO office, the agency that processed the applications for cooperatives. Every time I visited, the office was packed, with lines leading out of the office and down the staircase. The intern manning the front desk was trying to field requests from all angles, as the crowd got increasingly frustrated with the wait and the complexities of the administrative process. Almost every time I found the agency’s head in a shouting match with a disgruntled applicant. Frequently, visitors from rural borderlands were frustrated by having to make multiple expensive trips to the city. Another time, they were struggling to understand that their application had been rejected – they had been told by local officials in the borderlands that they would be helped and provided with an income.¹²³

“People were afraid of getting into cooperatives, but the government encouraged them”, one borderland resident remembered. They were scared “because they also had to pay some money to get these documents done, there is the transport to the city that you had to go to” (M100). On top of that, illiteracy –prevalent in the rural borderlands where access to education was limited and many started working on the border at a young age – provided additional problems in navigating administrative hurdles: “when I go somewhere, I don’t know if it is the right office, or if I have signed the right form” (Ibid.) From this, the impression swiftly spread that in order to successfully set up a cooperative, contacts were needed. “If you don’t know someone, they will throw out your file,” some worried, “the help doesn’t reach the people who are in need, it reaches the people who already have enough” (M94).

¹²³ From the author’s fieldnotes, Oujda, 20.06.2017.

Their challenges in building contacts, their dislocation in the re-arranging of the organisational structures of the borderland, their difficulties in navigating new formal institutions all left many of the former gasoline traders entirely alienated from a novel political settlement that was claimed to have been designed for their very inclusion. While bureaucrats often cited the previously high pay of smugglers as the central challenge in integrating them into the formal labour market, smugglers themselves highlighted their lack of education and connections as fundamental barriers in an extremely competitive low-skilled labour market (FG7).

Speaking to former gasoline smugglers across the Moroccan-Algerian border in 2016 and 2017, there was a sense of a group struggling to find its place in the new settlement, while being aware that there was no real role for them. While some had found small formal sector jobs in construction or gardening, others were relying on small temporary activities. Many remained outside the labour market. A sense of idleness, of limbo, of waiting, was prevalent, especially among the younger men. Many described their existence as one of ‘waiting’, waiting for the border to open again, for opportunities to emerge. And yet few professed any real hope that this would happen. There was a parallel here to what Alcinda Honwana (2014) described as ‘waithood’ – of having grown out of childhood, but rendered unable by their economic position to reach the independence and fulfil the social expectations associated with adulthood.

Borderland communities and law enforcement officials spoke with concern about increasing drug consumption in the borderlands (M63, M22, M94, M96). Some smugglers tell tales of wild nights partying in the nearby coastal city of Saidiyya when business was still booming, with girls and alcohol (FG7). In recent years, consumption trends appear to have shifted towards cheaper and harder narcotics, such as different varieties of synthetic psychotropics, commonly referred to as “karkoubi”. Borderland residents, as well as former smugglers, typically connect the influx of the highly addictive drugs with the rise in petty crime, theft and violence in the borderlands. Police statistics and newspapers have reported rising levels of violent crime and increasing seizures of psychotropics (Lesiteinfo 2018; Liberation Ma 2016).

Between 2013 and 2017, gasoline smugglers in Tunisia and Morocco moved from being informally included in the wider political settlement, to being either left uneasily

on the margins of a changing settlement, or adversely incorporated into a new settlement that did not offer them a real role, income, or sense of purpose. Their experience suggests two insights into inclusion and informal political settlements.

First, it highlights that a more formal political settlement is not necessarily a more stable one. In Morocco, the years between 2013 and 2017 have seen a decrease in the number of people in the borderland community who are dependent on illicit economies for their income, and an increase in income streams directly administered formally and legally by state institutions. It also saw some investment by state institutions, shifts to legal economic activity, and an increase in state-connected organisational forms such as associations and cooperatives, alongside an inclusion of borderlands into spatial management plans, road networks, and water and electricity networks. It is reasonable to say that the inclusion of the borderland in the political settlement has become more formal.

Despite these programs, and the absence of large-scale unrest in the borderlands, the sections above have pointed to serious pockets of vulnerability that remain. While smuggling has gone down, other forms of crime have increased, and a large group of unemployed young men excluded from local income streams alongside expanding concerns about drug consumption and criminal activity spell serious risks for the stability of the region. As an increasing body of work on supply-side eradications in illicit economies has highlighted (Goodhand 2004), eradication of illicit economies can have severely destabilising effects. As the sections above have noted, even if new formal rent streams are being created, organising them at the intersection between state and former smugglers brings significant challenges. This highlights the importance of inclusive development programs and the difficulties with formally including those who were previously informally included.

This leads directly to the second point: for informal gasoline traders, the experience of being included into a political settlement through informal institutions that they could not influence came with serious risks and undermined their ability to adapt to changing settlements. While the impersonal nature of informal regulatory institutions and low barriers to entry ensured their access to the rent streams generated by the smuggling economy, they created a reliance on these institutions and did not facilitate the creation of associational structures, the skills, the diversification of economic

activities in the borderlands, or the development of contact networks either across the border or with local state structures. This left gasoline traders in an extremely challenging position once their inclusion through the smuggling economy collapsed, and the institutional landscape changed to their disadvantage. This highlights the importance of organisational forms and connections – especially the importance of institutional channels of negotiation with the state (Joshi and Ayee 2008), even for smuggling networks. But what drives the development of these channels and their success? In order to develop these issues, it is useful to look at the contrasting experience of textile smugglers.

10.3 Textiles

Textile smuggling networks in Tunisia and Morocco stand in clear contrast to gasoline smugglers with respect to the features of their networks, their experience in recent years. They demonstrate how in a different context the inclusion through informal institutions can be compatible with the formation of associations, formal negotiations with the state, and a strong ability to adjust to changing settlements. Their success highlights the role of organisational structures and stresses the importance that connections with state structures can still have in determining success within the informal economy.

10.3.1 Features of the Textile Networks

One of the most notable differences between the networks smuggling gasoline and networks trading smuggled textiles examined here is that the latter have, in both case sites, established points of retail where lots of traders operate close to each other in formal and informal markets that contain hundreds of vendors, wall to wall. There is little disagreement among textile traders that the concentration of their retail structures in a small urban space has been a factor in their ability to influence the terms of their relationship with the state. “When we are on the road, there is only one of us,” a vendor in Oujda’s Souk Melilla observes, “Here, we are over a thousand people. They can’t just come here and take the products” (M85).

While most markets studied here did not form formal market associations until the last decade, there are strong indicators that their clustering also helped foster

organisational structures. For years before formal organisations were founded, loose communal structures for the payment of security staff or the resolution of disputes were in place. Communication, travel of information and coordination all likely facilitated organisation – all but one trader-based associations observed in both case sites that were formed since 2011 have been based in, and been limited to, a market structure.

The fact that textile traders were able to cluster in a small urban space was a feature of their trade, which they shared with other traders of non-flammable licit consumer goods of low to medium value, such as foodstuff, kitchenware or white electronics. The traders of these markets also typically shared broadly similar long-standing occupational practices – apprenticeships, or the coordination through an '*Amin Tujjar*' in the Moroccan case. In those markets that were formalised enough to have rent contracts, such as the Souk Libya in Medenine, the sale of gasoline was explicitly prohibited. But concerns about the flammable nature of their product was not the only thing that kept gasoline vendors out of these markets – the way in which consumers purchase gasoline likely contributed to a more diffuse distributional pattern, alongside the absence of institutional precedence for municipal taxation of gasoline.

The features of their business also made textile traders more likely to develop in-depth contacts with other traders, both domestically and abroad. While gasoline traders could buy from any gas station across the border and would get the same product, textile traders reported that building relationships with suppliers improved their knowledge of the produce, lowered prices or gains them preferential access to specific products – significant advantages in a crowded market. These networks also communicate information about other products or supply routes and thereby make it easier for traders to adjust in the case of changes to the regulatory structure. In the case of Tunisia's "popular diplomacy" process, as discussed in Chapter 8, traders directly sought to leverage their contacts across the border to improve their relationships with the state at home.

As with gasoline, the textile trade is not controlled by any tribal group or family, and the informal institutions that regulate the smuggling of these goods are impersonal. Still, there are barriers to entry, as access to market infrastructure, experience and capital are crucial. Across both case studies, many of the traders working in textiles

received all three from their family, typically because they took over the stalls and learned the trade from family members that were already working in the same markets. Textile traders, alongside other market vendors, often highlighted the importance of this experience for their commercial success (M76, M77, M83, M85).

Market stalls in both case-sites were typically allocated based on lists of vendors who had been in similar locations before. In Morocco, this created windows of opportunity in the 1970s and 1980s – when informal market spaces expanded – and a path dependency, in which families were able to maintain their position in the market. As the value of the market stalls rose, some left the market altogether but rented out their stall at competitive rates. In some markets, such as Ben Guerdane’s Souk Maghrebi, stalls were assigned by the municipality, directly benefitting politically well-connected families. Here, too, as some of the vendors began building larger stores outside of the market, they either left stalls to their family or rented them out at a profit (FG2).

Barriers to entry, such as capital, access to market infrastructure, training and connections have not formed textile traders into a homogeneous group. But they have shaped their occupational characteristics and contributed to a social make-up that is somewhat different to that of gasoline traders: textile traders appear more literate and more frequently have at least finished school. They typically have higher levels of capital, and in the Oriental are typically from an urban background. The discourse around a problematic ‘mentality’ and unruliness discussed in the section above about gasoline traders, is not heard about textile traders.

10.3.2 Textile Traders in Changing Political Settlements

These features – higher organisational capacity, the more cohesive character of their occupational institutions, the typically more affluent and educated background all contributed to textile networks weathering the challenges of recent years comparatively well in both Tunisia and Morocco. A closer examination of their success also highlights another factor: their ability to build and maintain structures of negotiation with state structures.

In both case sites, textile networks – alongside other vendors trading in the same markets – have maintained or gained access to well-organised market structures and

attracted state investment into their infrastructure. In Tunisia, the traders based in the Souk Maghrebi have made inroads towards gaining formal contracts for their stalls and access to electricity, as discussed in Chapter 8. In Morocco, the past decade has seen the construction of various smaller formal market structures in the urban periphery alongside the formal re-construction of larger markets in Oujda's city centre with significant state investment, including the Souk Melilla. It is also worth noting that the process of the construction and re-construction of these markets was largely conducted through conversation and negotiation with vendors in the markets. For most of the vendors, the changes in the market infrastructure were generally seen as positive.¹²⁴

The input of traders into the development of market infrastructure closely relates to the development of associations among the markets. In both case-sites, textile traders have heavily participated in the formation of legally recognised associations, and have gained access to local and national-level decision-makers, as highlighted in Chapter 8 and 9. In Tunisia, textile traders were represented in the Association of the Traders of the Souk Maghrebi, which gained legal status as an association and was involved in direct negotiations around market infrastructure and the legal status of its traders with local, regional and national cabinet-level decision-makers (T61, T62). In Morocco, textile traders were represented in multiple associations, such as the association of the Souk Melilla in Oujda, or the association of the Commercial Complex in Nador, which gained both legal status and membership in the regional chambers of commerce and secured access to local and regional-level politicians and administrators (M46). While gasoline traders commonly complained that getting access to state interlocutors was a challenge, associations of textile traders were generally enthusiastic about the access they received, boasting of the high-level politicians that they spoke with, and how quickly they could get an appointment (T61, T68, M81).

In both case studies, textile traders have seen, or made significant progress towards, the partial formalisation of their enterprises. In both cases, facilitating the formalisation of textile smugglers increasingly became official government policy, at least on a local level. Stable hybrid institutions taxing the markets built an incentive

¹²⁴ The exceptions to this were vendors who were financially unable to move to the new formalised markets. However, the number of those vendors where this was an issue (such as the Souk Melilla in Oujda) was generally very low.

for local administrations to support the trade, while the presence of associations established clear interlocutors. State investments in market structures and the creation of hybrid institutions that regulated an increasing amount of their distribution networks further accompanied the trade's increasing formalisation. However, in crucial contrast to gasoline traders, textile traders saw their relationship with the state formalised through terms that they largely either found acceptable or had specifically lobbied for. Their formalisation was largely a formalisation of the same occupational structure, rather than, such as in the case of Morocco's gasoline traders, their integration into different activities. Crucially, they understood the new structures that they were engaging in and had – albeit at times limited – input into their formulation.

These changes contributed to traders' ability to weather some of the larger challenges that their businesses faced in recent years. As discussed in Chapter 9, traders in Morocco faced the permanent collapse of their traditional business model as a consequence of the fortification of the Morocco-Algeria border and the proliferation of free trade agreements. Textile traders adjusted by diversifying their supply networks, drawing on legal imports and using their expertise, knowledge of the market and expanding connections with producers to stay afloat (M34, M83).¹²⁵ Crucially, the existence of formalised market structures, associations and the influx of state development programs helped traders transition into more formal and legal enterprises as the smuggling economy fell into crisis.

10.3.3 Concluding Contrasts

The experience of textile networks suggests two theoretical observations that contrast with the experience of gasoline networks.

First, while the experience of gasoline networks demonstrated that the formalisation of a political settlement is not necessarily stabilising, or in the interest of the affected informal networks, the case of textile traders shows that it can very well be. Despite the significant challenges that textile smugglers faced by 2017, they were one of the least likely networks to become a significant source of wider instability within the political settlement. They were more capable of adapting to new settlements and formalising some of their activities, and, crucially, had established organisational

¹²⁵ See also Section 9.4.1.

structures that were able to mediate and negotiate with local state structures. As noted in Chapters 8 and Chapter 9, much of these negotiations focused on setting the terms for further formalisation, concerning issues such as access to electricity, market infrastructure, and competition from less formalised vendors. In both countries, local heads of associations collaborated with a diverse set of political parties, and at no point supported political positions that could be categorised as radical or destabilising within the national context. While there was some concern in the formal business community when vendors associations in Morocco were first admitted to the local chambers of commerce, the unease quickly proved unfounded (M70). While the vendors' association in Ben Guerdane supported the 2016 protest movement within the city, as most civil society associations in Ben Guerdane did, they were not generally advocating political tactics that included mass mobilisation – neither were their equivalents in Morocco.

This closely relates to the fact that traders did not perceive their more formal status to be disadvantageous, and generally understood the new structures and institutions that they were regulated by. They generally perceived their new position as more dignified, as they typically included an improvement in infrastructure. The increasing formalisation of textile traders in both case sites included changes in their organisational structure which made the networks more accessible for state institutions, through the rise of associations. However, contrary to the case of Morocco's gasoline traders, this re-organisation was more limited in depth and scope, easier to navigate, and did not lead to the exclusion or dislocation of large numbers of traders.

Second, the experience of textile traders shows, in contrast to the experience of gasoline traders, that the inclusion through informal institutions can be advantageous in preparing networks for shifts in the political settlement. In the case of gasoline, their inclusion through impersonal informal institutions did not foster the creation of organisational resources or connections, leaving them disconnected and marginalised as the informal institutions changed or collapsed. In the case of textile traders, however, a history of bargaining and contact with state officials through the negotiation and maintenance of the institutional regulation of city markets had built relationships that helped with the negotiation of formalisation and made formal structures more legible and manageable for textile traders. It also had on the side of

the state established a familiarity in dealing with informal textile traders, and a financial reliance on the income generated by these markets, which facilitated negotiations around the formalisation of the trade.

In conversations with textile traders and local bureaucrats, the effects of this history of institutional interaction were frequently referenced. As a result of the different informal institutional mechanisms that had been created to informally tax the markets in the city centre, these markets were commonly framed locally as “less informal” than the activities in the borderlands, even as their operation was still entirely illegal. “Souk Melilla, even before the new market was built, this was formal”, a senior figure in the vendor’s association argues, referring explicitly to the informal tax that had been collected by the municipality from local vendors prior to the creation of the new market (M48). As Chapter 9 had noted, even Oujda’s mayor struck a similar tone (M60). In the words of another local bureaucrat: “Souk Melilla is the valley of contraband; the border region is the mountain. In the valley, they are happy to work with the authorities, but on the mountain, they don’t. In the valley, there are less problems” (M80).

Before concluding this chapter, however, a caveat is in order. As noted above, the work in the value chain of textile smuggling is not homogeneous. While this section has focused on textile smugglers, wholesalers and vendors that operate in markets, the trade also employs some of the most vulnerable individuals in Morocco’s smuggling economy: the transporters at the gates of Melilla.¹²⁶ Usually employed ad-hoc by wholesale traders, transporters did not see their mode of inclusion fundamentally change in recent years, they did not witness a formalisation of the institutions under which they worked, or the creation of associations.

While their access to an income through the trade has continued, their pay has diminished while working conditions have remained harsh. As a result of the economic crisis, an increasing number of locals have sought work as transporters, increasing competition, while changes in the hours at the border crossing have narrowed their time window (M99, M55, M56). There are few alternative sources of income - many transporters are indebted to wholesalers and dependent on their daily income to

¹²⁶ For their role in bringing goods through the border crossing, see Chapter 5. Although this lies beyond the scope of the chapter, these observations also apply to the other larger Spanish enclave in Morocco, Ceuta.

survive. Carrying heavy goods and standing in the sun for hours has often done serious damage to the health of the transporters, many of whom are elderly women. Worse yet, the pushing of many of the transporters into small spaces as they stream into Melilla has caused stampedes and suffocation. Repeatedly in the past few years, transporters have died (Pressly 2013). Consequently, while formalisations, associations and an ability to navigate changing institutional contexts has been a key feature of the past years for most textile traders, it has not necessarily spread to all sections of the trade's value chain.

10.4 Conclusion: Lived Political Settlements

While discussions of political settlements commonly emphasise top-down perspectives, this chapter has shifted the focus on *lived political settlements* – on how different groups seek to mobilise connections and resources to affect them from below and to adjust as they are changing. It has followed the experiences of two different smuggling networks – trading in gasoline and textiles – through the past ten years in Tunisia and Morocco. While much of this thesis has been dedicated to discussing whether smuggling economies have undermined the states of Tunisia or Morocco, this chapter has highlighted that while the borderlands have not necessarily undermined the state, the form of their inclusion into the national political settlement has – in a sense – undermined some groups within border communities, while providing opportunities for others. It has given rise to economic structures which, while regulated, have created real vulnerabilities for those sections of the local population that were dependent on institutions that they had no direct influence over and that could be revoked or collapse at any time.

The chapter has demonstrated that being incorporated into a political settlement through rents connected to informal institutions can be both a catalyst to formalisation and further inclusion and a recipe for excessive dependency and exclusion. By noting that these effects were contingent on features of networks, the chapter's analysis has further unpacked, for the context of informally incorporated groups, what political settlement analysis describes as 'holding power'. It has highlighted that aside from more classical elements of holding power such as capital and organisational capacity, the history of negotiating local institutional regulation with state structures has been

an important factor. It has shown that even when analysing the fate of smugglers, at the periphery of their countries' territories, laws and political settlements, the intersection with the state still retains importance. While previous chapters have pointed to the role of state structures in maintaining and enforcing informal regulatory institutions, this chapter has pointed to the role of state structures in shaping the intersection between themselves and different smuggling networks and consequently affecting the structure and fate of these networks in recent years. The experiences of the networks discussed in this chapter have highlighted the importance of recognising not only of heterogeneity in the power to affect a settlement, negotiate or force inclusion but also in the ability to adjust to changing institutional structures. The chapter's analysis has noted how changing settlements and institutional structures bring changes of legibility, especially for marginalised groups, as understanding and navigating new institutions may require skills and resources that they do not have at their disposal.

The comparison between networks and case studies has highlighted that the experiences of these different groups need to be closely considered in order to understand the relationship between the formalisation of a political settlement and its stability. In Morocco, the speedy formalisation of its political settlement in the North-East has decreased the region's dependence on illegal economies without the large-scale unrest that could be observed during border closures in Tunisia. However, while smuggling decreased, other forms of crime have increased, and the adverse incorporation of former gasoline smugglers and particularly young men, alongside increased drug consumption and a deeper sense of alienation in the immediate borderlands suggests serious threats to the region's stability in years to come.

As states are re-structuring their relationship with smuggling economies in the region, it will be important to recognise that both formalisation and the continuation of previous strategies of structured and segmented toleration do not necessarily imply stability and real inclusion. Inclusive politics will require close attention to how and by whom the terms of inclusion are negotiated, how different groups adjust to them, and what forms of economic and organisational structures they give rise to. As exemplified by the gendered changes in Morocco's borderlands, there is a need to also consider the effects of different forms of inclusion on social structures within groups, looking beyond the distribution of rents themselves, and also towards non-material

factors such as dignity, working conditions, social status, and how borderland populations themselves view, understand and navigate changing political settlements.

Chapter 11: Conclusion

11.1 Introduction

This thesis has investigated the role of smuggling economies in the political settlements of North Africa. In order to examine whether smuggling networks in North Africa have undermined the region's states, it has traced the different informal and hybrid institutions that regulate smuggling in the region. It has described how rent streams generated by these institutions and networks have served as part of national political settlements, providing incomes for borderland populations, security forces and national elites, and compensating for the absence of formal state investment in the geographic and political margins. On this basis, this dissertation has argued that smuggling has not primarily undermined states, but has been a feature of a particular form of state-building. It has further investigated this type of informal political incorporation, tracing the role of smuggling economies in the changing political settlements of Morocco and Tunisia in the past decade, and examining what has driven the heterogeneous experiences of different networks in affecting the terms of their inclusion and adjusting to new settlements.

This chapter highlights the consequences of these discussions for both theoretical debates and policymaking in the region. It consists of three sections. The first provides an overview of the central arguments of the thesis, drawing out sets of theoretical and empirical conclusions. The second highlights the implications of these findings for contemporary theoretical debates on informal institutions, political settlements and borderlands, and points to implications for regional and international policymakers. The third section highlights new areas of research and conclude.

11.2 Smugglers and States: Regulation, Incorporation and Vulnerability

The questions at the heart of this thesis emerged out of a tension between contemporary discourses around smuggling and state-building in the academic and policy literature, and empirical observations of smuggling activities in the region, as described in **Chapter 2 and 3**. What has been described as hidden, can often be found

in plain sight, what has been described as destabilising has frequently coincided with periods of public unrest whenever it decreased. The primary questions of this project then became: Does informal cross-border trade undermine state institutions or contribute to alternative forms of state-building? And if so, what are its features and consequences? In order to answer these questions, this thesis has drawn on both ethnographic and comparative methods, and on extensive fieldwork in Morocco and Tunisia, as detailed in **Chapter 4**, tracing differences between the dynamics in the two field sites as well as between gasoline and textile networks in both sites. Additionally, it has also examined the effects of recent political shifts on the smuggling economy in both countries, most notably the 2011 revolution in Tunisia, the ascension of a new King in Morocco, and the construction of additional border fortifications by Algeria.

This thesis began its examination of the relationship between smuggling and state structures in North Africa with an analysis of *regulation*. **Chapter 5** observed that smuggling economies in North Africa trading in licit goods are primarily regulated through institutionalised arrangements which we can refer to as informal institutions. It presented detailed descriptions of these institutions, highlighting that while they were mainly informal, they were not dependent on personal characteristics or connections of traders, and contained third party enforcement through the active and systematic involvement of local state agents. It highlighted that these institutions can regulate the quantity and price of smuggled goods, as well as segmenting different types of smuggled goods. This provided a counterpoint to the narrative that licit smuggling networks subvert states by generating a form of general porosity through which more harmful actors – smugglers of illicit goods or terrorists – can slip.

However, institutions are not the only element of regulation that is worth noting. **Chapter 6** also highlighted how understandings of moral appropriateness and legitimacy affect attitudes towards the trade and the participation of borderland populations. It noted that while the trade is regulated through local informal institutions, this does not necessarily imply that these institutions are seen as legitimate by local populations. Furthermore, while informal institutions have contributed to the wide-spread presence of networks with low barriers to entry, access to capital and connections have also shaped smuggling networks by moulding higher barriers to entry to more profitable networks or positions. Notably, both dynamics are not entirely divorced from the state, either. Different moral evaluations of various smuggling

activities were frequently connected to evaluations of the role of the state. And, as the comparison between gasoline and textile networks has foregrounded, relationships with state institutions remained a crucial factor in determining the ability of different smuggling networks to prosper, build capital and diversify. This analysis of the regulation of smuggling thereby provided a first entry into a discussion of its political economy: it emphasised that states need to be considered as playing an important role in the regulation of smuggling, not merely as an enforcer, or occasional non-enforcer of formal laws.

Any analysis of regulation generates questions about regulators. Here, questions emerge about why states tolerated and regulated smuggling networks in their periphery, and who benefitted from the resulting rent streams. This led large parts of this thesis to focus on an analysis of *incorporation* – of the role that rents generated by smuggling economies have had in informally incorporating different groups into wider political settlements. **Chapter 7** traced the incomes generated by smuggling economies and their regulation. It argued that while the notion of an “authoritarian bargain”, trading political acquiescence for formal rents through subsidies and state employment, has been a staple of the analysis of the political economy of the Middle East and North Africa, the toleration and regulation of the smuggling needs to be understood in the context of an “informal authoritarian bargain” in the region’s borderlands. Here, informally generated rent streams provided income opportunities to borderland populations and compensated them for the concentration of formal rent streams and state investment in the coastal centres. Borderlands are thereby incorporated – but, crucially, only informally so – into clientelist but largely stable national political settlements. As the chapter notes, borderland communities are not the only ones whose access to resources under this political settlement is organised through smuggling economies. State institutions, including security services and local municipalities, have found ways to access smuggling rents through bribes and informal taxation, and politically connected elites have been able to use clientelist relationships in order to insert themselves into the smuggling economy.

This incorporation of borderlands into national political settlements in Tunisia and Morocco through smuggling economies has been challenged in the context of broader changes in the political settlements and institutional landscapes of the region. As **Chapter 8** discussed, the Tunisian revolution not only removed a set of politically

connected actors with interests in the smuggling economy, but also led to a re-negotiation of the role of smuggling in its national political settlement. While the years following the revolution saw bargaining between smugglers and states on a variety of different levels over the terms of their incorporation, it also saw the re-constituted democratic Tunisian state once again rely on the smuggling economy to incorporate its borderlands.

Morocco, on the other hand, saw a soft re-alignment of its political settlement with the ascendancy of a new king, and the expansion of formal state investment in the North-Eastern borderlands. As **Chapter 9** discusses, however, this did not primarily aim to replace the smuggling economy, but to further structure it, and build on its economic role in the region. Once Algeria began to re-enforce its land border, effectively cutting off networks smuggling gasoline and other licit goods, further formal state investment in the borderlands was needed to make up for the shortfall in informal rent streams.

This analysis of both regulation and incorporation can generate a first answer to the question about whether networks smuggling licit goods in North Africa are subverting the region's states. It suggests that they are not subversive to the region's states, but in fact closely regulated by them, and, most crucially, fundamental to supporting the wider political settlements, and thereby supporting the distribution of resources on which the stability of the state itself rests. Rather than as a re-making of the state by the periphery or a return of traditional, tribal or non-state organisational forms, the politics of smuggling must be analysed with a consideration of wider modes of governance that involve the state itself.

However, as the later parts of this thesis highlights, this answer is incomplete without noting also noting various *vulnerabilities* which are inherent to this political settlement, and particularly to the groups informally incorporated into it.

As both **Chapter 8** and **Chapter 9** have highlighted, these settlements are vulnerable insofar as they are dependent on economic and political conditions in the region which are not always within the control of the respective states themselves. In Tunisia and Morocco, smuggling economies were thrown into crises in recent years as a result of the civil war in Libya and Algeria's construction of new border fortifications. In addition, they are dependent on a heterogeneous regional subsidy and tariff regime in

the region, which is increasingly under threat in the context of expanding free trade agreements and subsidy reforms in the region.

As **Chapter 10** has highlighted, the limitation of smuggling and formalisation of the settlement does not necessarily increase stability and inclusion, but may lead to new sources of instability and adverse incorporation of those who lack the power to engage with the terms of inclusion offered. Here, vulnerability extends to the populations informally incorporated into these political settlements. Smugglers commonly experience insecurity and structural violence as a result of their extra-legal enterprise and working conditions, even if those are generally tolerated. As the comparison between gasoline traders and textile traders has highlighted, the effects of an incorporation through informal institutions are highly context-dependent. They can be a steppingstone to a formalisation on terms that are acceptable to traders, or lead to complete dependence on these institutions, and complete disconnections in the event of their collapse. As the chapter noted, connections to state structures and other traders, organisational capacity and institutional history are crucial in shaping the ability of informal economic actors to influence the terms on which they are incorporated into political settlements, and, crucially, not all incorporation is genuinely inclusive.

11.3 Implications

This section summarises some of the central contributions that this thesis has made to theoretical perspectives on institutional theory, political settlements and borderlands.

11.3.1 Institutional Theory

One of the main contributions that this thesis has made to the study of institutions lies in its challenge of common characterisations of informal institutions in mainstream political economy as represented by New Institutional Economics and political settlement approaches. Both theories assume that informal institutions are incapable of creating impersonal structures of regulation or third-party enforcement (North 1990; M. Khan 2010). This dissertation supports and expands critiques of this characterisation (Meagher 2007; Assaad 1993b) through its analysis of informal institutions in the regulation of smuggling.

First, this thesis has shown that informal institutions are capable of establishing impersonal structures of regulation. The informal regulation of smuggling at the Ras Jedir border crossing, for example, the procedures at the Melilla border crossings, or those at the ‘gates’ alongside the Algerian border with Morocco are all largely impersonal. Participation in the activities regulated by these institutions may require certain characteristics of the people involved in them, such as a residency card for Nador, but this is not untypical for impersonal institutions. Crucially, they are not tied to particular personal identities or relationships.

Second, this thesis has shown that informal institutions are not necessarily ‘rules in force’ (Ostrom 2005) but can contain third party enforcement – which may include state actors. The intuition behind the idea that informal institutions cannot regulate impersonally builds on the assumption that they lack third-party enforcement, that they are self-enforcing, thereby requiring them to operate on a basis of trust (Jütting et al. 2007; Ostrom 2005). In the context of the institutions observed here, this does not hold: soldiers, customs agents and police forces illegally but systematically act as enforcement agents for these institutions. While in some cases, they appear as corrupt patrons, we also observe them enforcing informal rules while not collecting any bribe at all or collecting a fixed payment that has been agreed as part of the institution itself. Crucially, they create interactions that are large-scale, predictable, and necessitate neither trust nor evasion.

This does not imply, however, that the two categories – formal and informal institutions – completely collapse into each other. The fact that informal institutions are created, communicated and enforced outside the ‘officially sanctioned channels’ (Helmke and Levitsky 2004) remains analytically meaningful, and should be retained as the primary substantive feature of informal institutions. This dissertation, however, has suggested that all other features cannot be inferred from the institutional type alone, but are embedded in and conditional upon their political environment. The third-party enforcement of informal institutions around smuggling by state agents is tied to the political choice to tolerate some forms of smuggling. The impersonal nature of these institutions is closely related to the political necessity of maintaining low barriers to entry for certain networks, in order to generate employment in the

borderlands. Consequently, this thesis has highlighted that in order to provide a meaningful discussion of the features of informal institutions, an analysis of their political context is indispensable.

The analysis presented here also support Cleaver's (2012) observation that regulatory institutions do not typically emerge as rational solutions to collective action problems, but as the results of historical patterns of 'bricolage'. An empirical example of this presented here has included the development of informal and increasingly formalised taxation of the distributional networks of textile smuggling through traditional market taxes. Crucially¹²⁷, however, this process of institutional development and bricolage is not a random walk but deeply embedded in historical arrangements and power relations. As this thesis has noted, the ability of different groups to affect the development of institutions and navigate changing institutional structures is highly heterogeneous and related closely not only to capital and organisational capacity but also to the ability to structure the intersection with state structures.

On a related point, this thesis also urges caution with respect to the local legitimacy and developmental nature of informal and hybrid institutions. An expanding literature on 'development with the grain' has emphasised that institutions that are informal or hybrid in nature and embedded in local practices and negotiations are perceived as particularly legitimate by local populations, and, being adapted to local circumstances, can be particularly efficient or developmental (Booth 2011; Levy 2014). Discussions with borderland populations in this dissertation, however, have supported the perspective that local participation in informal and hybrid institutions, or even their involvement in their negotiation, is not necessarily an indication of their moral legitimacy (Doornbos 2010; Meagher 2012). Borderland populations and smugglers themselves commonly view smuggling critically and evaluate it in a wider economic context that is characterised by a lack of alternatives. Views on the legitimacy of these institutions are heterogeneous and participation is not always perceived as entirely voluntary.

¹²⁷ As Cleaver (2015 209) and Meagher et al. (2014 5) have previously noted.

11.3.2 Political Settlements

As Meagher has noted, “the political settlement approach provides an analytical tool for moving beyond the routine pathologizing of African states with a view to understanding them in terms of what they are, not in terms of their failure to replicate ideal-typical Weberian states” (forthcoming, 3). Similarly, this dissertation has found a political settlement approach productive for viewing North Africa’s commonly pathologized systems of borderland governance in terms of what they are, not in terms of *a priori* assumptions about smuggling and state subversion. The approach has helped to structure insights about regulation, rents and stability into a systematic analysis of the relationship between smuggling and state-building. By offering an application of political settlement analysis to illegal economies, this dissertation joins recent work by Goodhand (2004; 2005; 2008; 2012) in closing an empirical gap within political settlement scholarship. This is of particular conceptual importance due to the centrality of informal rents to political settlement analysis, and the large role of informal and illegal economies in structuring rent streams in developing countries. In the process of its empirical analysis, this thesis has made multiple theoretical contributions to the literature on political settlements more widely.

First, this thesis has contributed to our understanding of the role of informal institutions and illegally generated rent streams in the stabilisation of political settlements. As noted by Khan (2017, 2), the role of informal institutions and rent streams in shaping institutional outcomes marks a central contribution of political settlement approaches to modern political economy. And yet, the conception of informal institutions in political settlement scholarship is still underdeveloped. Political settlement approaches so far do not apply their central assumption, the dependence of institutional performance on the political context, to the features of informal institutions, relying instead on their characterisation as personalistic. Noting that informal institutions can be impersonal or contain third party enforcement, as discussed in the previous sub-section, does not clash with any of the central assumptions of the political settlement framework, but generates new research questions on the role of informal institutions and organisational structures in political settlements.

Second, this thesis has contributed to the spatialization of political settlements. Goodhand and Meehan (2018) have pointed to political settlement analysis' focus on the nation-state as its sole frame of reference as its most fundamental limitation, as it "underplays international and regional dimensions", and "lacks an explicit analysis of space and territory" (15). This thesis has highlighted and provided empirical context for two spatial relationships within political settlements.

On the one hand, it has noted that political settlements, while often conceptualised within the boundaries of the nation-state, are deeply embedded in cross-border relationships. The reliance of the political settlements of Tunisia and Morocco on rent-streams generated through smuggling economies directly relates them to the political settlements of their neighbours, particularly Algeria and Libya, as their tariff and subsidy regimes – themselves a crucial element of their own domestic political settlements – were crucial smuggling economies. This introduced new sources of fragility into the political settlements of Tunisia and Morocco, as changes in the political settlements of their neighbours, such as Algeria's change in its border policy or the civil war in Libya, directly affected the distribution of resources in Tunisia and Morocco, and, as smuggling economies collapsed, the stability of their political settlements. As these considerations have shown, there is a need for political settlement scholarship to more explicitly recognise the interconnectedness of political settlements in a regional and global context.¹²⁸

On the other hand, this thesis has also noted the territorial unevenness of North Africa's national political settlements and highlighted the relationships and overlaps of local, national and borderland settlements – its domestic territorial politics. Currently, these relationships are not clearly conceptualised within political settlement approaches. Mirroring conceptions of 'vertical inclusion', there appears to be an assumption that sub-national settlements are integrated into national settlements through sub-national elites which then connect local populations. However, as this thesis has highlighted, borderland populations are not universally 'delivered' or included through local elites, but engage with local, regional and national elites, as well as local and national institutions. Political settlement analysis of these dynamics

¹²⁸ Aside from Goodhand and Meehan (2018) cited above, this also closely relates to the arguments made by Hickey (2013).

requires more attention to the intersection between different local and national constituencies and political actors – which relates directly to the next point.

Third, and perhaps most importantly, this thesis has contributed to the study and conceptualisation of inclusion, and particularly informal inclusion in political settlements. While political settlement approaches commonly frame inclusion through informal rents as a side-payment to powerful groups, this dissertation has highlighted that it can also incorporate relatively powerless groups. It has noted that such informal incorporation can generate challenges for the affected groups that differ from more formal modes of incorporation. Drawing on the experiences of different smuggling networks, this dissertation has highlighted heterogeneity in how different groups experience informal incorporation, and pointed to a need to closely examine how holding power manifests under conditions of informality, how groups mobilise resources to affect settlements from below, and how they adjust to changing settlements.

Through this, this dissertation has also contributed to a debate on inclusivity and stability in political settlements. It has shown that the formalisation of political settlements does not necessarily increase their stability or inclusivity, and has argued that discussions of both ‘horizontal’ and ‘vertical’ inclusion are insufficient if they do not also include an analysis on the terms of inclusion. In this, this thesis has noted how political settlement analysis can productively be connected to an expanding discussion on inclusive economies and adverse incorporation in development studies (Du Toit 2004, 2009, Meagher and Lindell 2013).

11.3.3 Borderlands

This dissertation has sought to extend scholarship on the relationship between smuggling and state-building (Andreas 2014; Goodhand 2004; Meagher 2014b) by combining its political settlement approach with the focus on local dynamics of order-making in borderlands that has been a hallmark of contemporary work in African borderland studies (Raeymaekers 2012a; Titeca 2009; Meagher 2012). In arguing that rather than subverting states, smuggling can be embedded in particular modes of state-building, but at the same time noting that these modes of state-building are not

necessarily driven by bottom-up dynamics, this dissertation takes a middle position in critical discussions in contemporary borderland studies.

The analysis of smuggling in Tunisia and Morocco presented here has provided evidence against the portrayals of states and smugglers as inherently antagonistic that can be found in both the work of Scott (2009) and neo-Weberian accounts of state-building (Rotberg 2010). However, at the same time, it also urges a more cautious approach towards claims that these processes of order-making have made borders the front-lines of the re-negotiation of states, that states are reshaped and moulded (Nugent 2002) at their borders and “engulfed by legal pluralism” (Raeymaekers 2012). Scholars such as Huesken and Klute (2015) have argued that governance processes in borderlands require an analytical approach that completely looks beyond the state as the primary actor in order-making. This dissertation takes a contrary position alongside scholars such as Meagher (2014) and Dobler (2016), who have pointed to the continuous role of actors from the political centre in the borderlands.

This dissertation has argued that while there may have been plenty of ‘action’ in the borderlands, this should not obscure the ways in which this action has been shaped, organised and even regulated by the state. Crucially, it has noted that the state’s role in the borderlands does not have to be confined to the actions of local state agents who may be following different interests than the central state far off in the capital, but that it can be closely connected to the fundamental distributive and institutional basis of the state itself. The dissertation has developed this argument by tracing the role of the state as a regulator and enforcer even in informal regulatory arrangements that at first sight may easily be considered outside of its remit. It has highlighted the role of state agents in negotiating informal institutions, as well as the degree to which locally negotiated institutions and even normative perceptions were subject to the wider structural conditions of national political settlements.

In addition, this dissertation has elaborated how political settlement analysis can contribute to addressing weaknesses in the contemporary literature on hybrid governance in borderlands. As Raeymaekers (2012b, 345) noted, there is a lack of empirical discussion of how border governance is shaped by political hierarchies, power relations and gendered structures. By closely following the negotiation of changing regulatory institutions at the border, this thesis has been able to highlight

these dimensions, and use them to inform theory development, through the notes on ‘lived political settlements’ discussed above. Furthermore, discussions on hybrid governance frequently struggle to relate regulatory processes in borderlands to more abstract conceptions of state-building. As this dissertation has noted, a political settlement approach helps to structure empirical insights into institutional regulation, rent streams and power relationships in the borderlands – all traditional staples of borderland studies – to more effectively speak to their role in state-building processes beyond the periphery.

11.3.4 Policy

The conclusions of this thesis have clear implications for policymaking on smuggling, illegal economies and borderlands. I will highlight three main themes here – porosity, corruption and development. While I will discuss these in the empirical context of North Africa, as this allows me to draw on examples from this thesis, their applicability is not limited to North Africa.

First, this thesis has suggested that the conception of border porosity in North Africa that underlies contemporary policy discourses in the region is fundamentally incorrect. Policy discussions and reports (Hanlon and Herbert 2015; Timmis 2017) typically begin from the assumption of a form of ‘general’ border porosity, where different actors can move across borders outside the view of the state. Occasionally, the argument is made that small-scale smuggling of licit commodities has created these ‘paths’, which can now be used by weapons smugglers or terrorists (Babuta and Haenlein 2018; Hanlon and Herbert 2015). As this discussion of the institutions that regulate smuggling in North Africa has shown, this is fundamentally incorrect. Not only does small-scale commodity smuggling and the smuggling of drugs or weapons occur along different ‘paths’, but the paths that the former uses are highly regulated through informal institutions that are partially enforced by state agents, and contain limits on the quantity and types of goods that may pass through them.

The policies that typically follow from this assumption of ‘general porosity’ include the construction of new formal regulatory institutions in order to counter the perceived absence of regulation, and improvements in state enforcement capacity in order to counter its perceived weakness. Most prominently, this has included the construction

of new border fortifications: the past decade has seen increased fortifications along the Melilla-Morocco border, the Algeria-Morocco border, and the Tunisia-Libya border. The effects of these fortifications, however, have been mixed. While the new fortifications on the Melilla-Morocco border have had relatively little effect on smuggling, the new fortifications on the Morocco-Algeria border almost entirely wiped out networks smuggling licit goods, while confiscation data suggests that they have had a relatively limited effect on networks trading in illicit goods.

With respect to the efficiency of border walls and fortifications, the analysis presented in this thesis urges caution. It notes that new regulatory institutions are not constructed in an institutional vacuum, but that their effect is determined by their interaction with pre-existing informal regulatory arrangements and power structures. Furthermore, it highlights that the effects of border fortifications on different networks are heterogeneous. Preliminary experience from the region suggests that new infrastructure frequently risks restricting the smuggling of licit goods without seriously disrupting networks trading in illicit goods. Meanwhile, the creation of new border infrastructure risks disrupting rent streams that are crucial for local communities and may thereby lead to a destabilisation of the borderlands and undermine previous informal security arrangements.¹²⁹

Second, this thesis has suggested that a re-evaluation of the role of corruption in organised crime and illegal cross-border trade in North Africa is needed. Much of the policy literature on the issue (Babuta and Haenlein 2018; Timmis 2017; Economist Intelligence Unit 2018) has identified corruption among security services and state officials as a root cause of smuggling and transnational organised crime in the region. Commonly, anti-corruption training and improvements of institutional oversight are suggested in order to address this issue. However, the evidence that this thesis has presented suggests that as smuggling is deeply embedded in the distributional politics and political settlements of the region, the role of corruption as a root cause has likely been overstated. While it commonly accompanies the phenomenon of smuggling – and is both essential and a constant nuisance to the smugglers themselves – this thesis has also presented evidence of smuggling that is facilitated by security forces without the collection of any bribes at all. It has suggested that corruption is a feature of the

¹²⁹ For a full discussion of this argument, see Gallien and Herbert (2018).

politics of smuggling, but not its cause. In the absence of corruption, smuggling would not necessarily halt.

While this raises serious doubts as to the effectiveness of anti-corruption measures in tackling smuggling in North Africa, it does not mean that the issue is not worth further exploration. Corruption likely plays a larger role in the smuggling of goods outside of the regulatory structures discussed here, and represents a set of rent-streams to powerful constituencies in the security services which may act as veto-players to any reform programs for the borderlands. It does, however, suggest a need for more targeted thinking about corruption. As with border infrastructure, policymaking needs to consider the wider politics and institutional dynamics of smuggling rather than just respond to pre-determined normative concepts of best practice in order to anticipate the real effects of its interventions.

Third, the analysis presented here suggests that development initiatives need to play a larger role in policy engagement with borderlands and are in serious need of innovation and expansion. While this thesis has highlighted some negative side-effects that disrupting smuggling economies can have for borderland populations, this does not imply that the reliance on smuggling economies is sustainable. As noted throughout, smuggling economies contain real risks for those involved, have been associated with lower incentives to pursue education, and are subject to changes in regional politics, subsidy regimes, free trade agreements and state crackdowns. What is needed is an alternative economic plan for the region's borderlands that goes beyond law and order approaches, but emphasises historic neglect and the need for investment and development.

As the experience of Morocco's emergency program for the borderlands has shown, there are unique challenges in creating formal opportunities for borderland communities reliant on smuggling. As many young men have quit school to join smuggling networks, low educational levels require a tailored approach to employment creation. The flexibility and independence that in many cases came with working in smuggling networks present additional challenges to integration into a different sector. Finally, the lack of credible intersections and the lack of trust between particularly younger and lower-level members of smuggling networks and local state

institutions need to be urgently addressed in order to build more successful development policies for borderlands in the region.

The analysis provided here suggests why two of the approaches frequently suggested, agricultural projects and special economic zones, are not without problems. Agricultural projects in Morocco commonly failed to engage young male smugglers, both due to the challenges in transitioning to a different sector and the absence of a vision of work that connected to desires for dignity and perspective. This was closely related to the programmes' failure to create an intersection with the local population that was easy to navigate, capable of fostering trust, cooperation, and a sense of genuine inclusion.

While special economic zones as a formal alternative to smuggling are either suggested or already in place in Tunisia and Morocco, the analysis presented here indicates a need for caution. As demonstrated, access to capital, connections and the ability to re-structure businesses among former smugglers are highly heterogeneous. While special economic zones offer opportunities for some smugglers, they do not necessarily replicate the low barriers to entry that many sub-sections of the local smuggling economy are reliant on. At the same time, they represent yet another regulatory regime to navigate or manipulate, opening up opportunities for already well-capitalised or connected actors, with limited oversight over the conditions of employment they may generate.

Both examples point not only to a need for a significant expansion of development-oriented policymaking in North African borderlands, but also in innovation in these approaches themselves, requiring an explicit study of the terms of inclusion for different social groups. In order to create alternatives to the low barriers to entry that were essential to many smuggling networks, programs need to be designed explicitly with marginalised sections of the borderland population in mind, putting genuinely inclusive employment initiatives at their centre. Programs need to build on precise studies of border economies, not only to be able to target networks that are most in need of support, but also to recognise the political structures that they are engaging with. If they create new regulatory structures, programs need to be designed, negotiated and communicated in a way that facilitates adaptation and considers local understandings of dignified work, while building an intersection with borderland

populations that doesn't marginalise already powerless actors. Otherwise, as this thesis has demonstrated, there is a real risk that programmes designed to include borderland economies end up perpetuating exclusion, alienation and eventually deeper instability.

11.4 Research Outlook and Conclusion

As this thesis has argued, the features of informal institutions are rooted in their political context, and can not be determined *a priori*. From this follow extensive opportunities for a new engagement with informal institutions in political science. Drawing on the observations presented here, as well as in parallel debates on hybrid governance, additional research should examine how different political contexts shape the features of informal institutions. Moving past assumptions on the 'statelessness' of informal institutions, bringing the state back into the analysis of informal institutions is an important project for political science and institutional theory. This would benefit particularly from further comparative approaches and studies that describe institutional change, drawing on shifts in the local or national political context.

This thesis has demonstrated the contributions that political settlement analysis can make in analysing the relationship between illicit economies and the state. There is substantive room for its application to other informal and illicit economies, including informal street-vending, agricultural production of narcotics, or organised crime groups. Similarly, as highlighted above, there is significant space for an expansion of political settlement analysis that highlights the spatial dimension of political settlements, both within and across national borders.

More importantly, however, this thesis has made a case for looking 'under the hood' of political settlements, and at their bottom-up dimensions. Key areas of future study here include how the 'inclusion' through different institutional types and structures shapes not just the stability of the settlement itself, but also how they affect the intersection between state structures and different groups vying for inclusion. Additional research on powerless and marginalised groups in political settlements can broaden our understanding of different actors within political settlements and refine the terms through which we analyse them. In this context, more direct engagement with the literature on inclusive economies and adverse incorporation would allow

political settlement scholarship to refine its conception of inclusion. This line of enquiry would also lead to additional questions on gendered political settlements and the role of structural violence in stable political settlements, which appear under-discussed so far.

Another avenue for future research that combines both this thesis' interest in informal institutions and political settlements is the issue of formalisation. While both the policy and the academic literature contain a range of assumptions about the effects of formalisation and legalisation of illegal economies, the heterogeneous experience of different networks presented here highlights the degree to which these effects are dependent on network's organisational structure, connections and institutional histories. Additional research could aim to further structure our understanding of how political contexts and features of networks affect experiences of formalisation, and in which contexts formalisation projects can be expected to be more inclusive.

11.4.1 Conclusion: Beyond Law and Order

“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 striking the state at the heart of its existence.”

Mehdi Jomaa, Prime Minister of Tunisia, Speech 2014

This dissertation began with a quote from Tunisia's former Prime Minister, noting the contrast between the language with which states in North Africa often frame smuggling economies as subversive threats to their existence, and how they in practice commonly tolerate, regulate and tax them. As this chapter has summarised, this project has sought to resolve this contrast by demonstrating states' continuous reliance on illegal economies to support political settlements and the maintenance of order on which the formal institutions of the state depend. While arguing against a portrayal of smuggling as inherently subversive, this thesis has also sought to highlight the fragilities inherent in this form of order, by noting the heterogeneous experiences of different networks, and the vulnerabilities that borderland communities face. While there are still good reasons not to throw out the idea of 'subversion' from the study of smuggling and border economies, it needs to be complemented by a question: Who is subverting whom?

By approaching smuggling through the lens of politics and development rather than from a law and order perspective, this thesis has aimed to suggest a political contextualisation of both ‘law’ and ‘order’. It has highlighted that while the economies of North Africa’s borderlands are more likely to routinely operate outside the law of the political centre, they are shaped by rules and structures which cannot be entirely separated from the politics of the centre. The order that emerges is neither new nor necessarily subversively encroaching on the state in the periphery, but is the result of a specific model of inclusion that purposefully placed the region’s borderlands in economic dependence on tolerated illegal activity in a context of formal state neglect. It does not ‘strike the state at the heart of its existence’ – it has long been an element of how it navigated and supported its very existence. It is not a threat to “reinforce” against, but a legacy to be addressed.

Appendix I: Interview List

Interview descriptions below have been anonymised, with the exception of very few instances (M60, T45, T49 for example) in which the interview was agreed to be conducted ‘on the record’. Smaller localities have similarly been anonymised.

Appendix I.1 Interview List Tunisia

Code	Anonymised Description	Interview Date	Interview Location
T1	Tunisian academic	19 July 2014	Jendouba
T2	Senior politician, economist	24 July 2014	Tunis
T3	Local Resident	25 July 2014	Tabarka
T4	Gasoline smuggler	28 July 2014	Jendouba
T5	Gasoline smuggler	29 July 2014	Jendouba
T6	Senior administrator, state-owned enterprise	30 July 2014	Jendouba
T7	Tunisian academic	30 July 2014	Jendouba
T8	Tunisian academic	12 August 2014	Tunis
T9	Tunis-based political analyst	12 August 2014	Tunis
T10	Member of parliament	14 August 2014	Tunis
T11	Analyst, formal sector gasoline importer and distributor	15 August 2014	Tunis
T12	Member of parliament	15 August 2014	Tunis
T13	Mid-level local bureaucrat	19 August 2014	Djerba (Houmt Souk)
T14	Civil society activist focused on local economic issues	20 August 2014	Ben Guerdane
T15	Small-scale informal vendor of household items, Souk Maghrebi	20 August 2014	Ben Guerdane
T16	Local journalist	20 August 2014	Ben Guerdane
T17	Senior official, local employers’ association	21 August 2014	Ben Guerdane
T18	Local civil society actor focused on agriculture	21 August 2014	Ben Guerdane

T19	Civil society activist focused on local economic issues	22 August 2014	Ben Guerdane
T20	Vendor, Ras Jedir wholesale market	22 August 2014	Ben Guerdane
T21	Small-scale gasoline smuggler	22 August 2014	Ben Guerdane
T22	Civil society activist	22 August 2014	Ben Guerdane
T23	Mid-level local bureaucrat	25 August 2014	Djerba (Houmt Souk)
T24	Representative of the regional employer's association	26 August 2014	Medenine
T25	Senior official, regional development organisation	26 August 2014	Medenine
T26	Medium-level municipal bureaucrat	27 August 2014	Medenine
T27	Senior municipal bureaucrat	27 August 2014	Medenine
T28	Senior official, regional employment office	27 August 2014	Medenine
T29	Senior official, formal textile production and export	28 August 2014	Djerba (Houmt Souk)
T30	Formal-sector exporter of fabrics	29 August 2014	Djerba
T31	Senior Tunisian academic	02 September 2014	Medenine
T32	Senior municipal bureaucrat	03 September 2014	Ben Guerdane
T33	Local labour activist	03 September 2014	Ben Guerdane
T34	Resident, former gasoline smuggler	03 September 2014	Ben Guerdane
T35	Senior municipal politician	04 September 2014	Ben Guerdane
T36	Senior municipal-level bureaucrat	04 September 2014	Ben Guerdane
T37	Small-scale informal money exchange operator	05 September 2014	Ben Guerdane
T38	Small-scale smuggler and transporter of car parts	09 September 2014	Ben Guerdane
T39	Senior municipal bureaucrat	09 September 2014	Ben Guerdane
T40	Wholesale smuggler (licit goods), civil society activist	10 September 2014	Ben Guerdane
T41	Senior municipal bureaucrat	11 September 2014	Ben Guerdane

T42	Tunisian senior academic	19 September 2014	Hammamet
T43	Policy analysts working on border security	23 September 2014	Tunis
T44	Senior official, national employers' association	03 January 2017	Tunis
T45	Senior politician, former President of Tunisia	04 January 2017	Tunis
T46	Civil society actor, focused on economic and security issues	06 January 2017	Tunis
T47	Civil society activist focused on informality	06 January 2017	Tunis
T48	Senior economist, politician	06 January 2017	Tunis
T49	Senior politician, former foreign minister	07 January 2017	Tunis
T50	Civil society activist focused on corruption issues	08 January 2017	Tunis
T51	Civil society activist focused on decentralisation	08 January 2017	Tunis
T52	Journalist	08 January 2017	Tunis
T53	Official, Tunisian stock exchange	10 January 2017	Tunis
T54	Journalist	14 January 2017	Tunis
T55	Tunisian academic	17 January 2017	Tunis
T56	Civil society activist focused on informality	20 January 2017	Tunis
T57	Member of parliament	20 January 2017	Tunis
T58	Member of parliament	30 January 2017	Tunis
T59	Member of parliament	30 January 2017	Tunis
T60	Transporter working for a wholesale smuggler (licit goods)	05 February 2017	Ben Guerdane
T61	Senior figure, local association of informal traders	06 February 2017	Ben Guerdane
T62	Labour inspector	08 February 2017	Ben Guerdane
T63	Local union leadership figure	08 February 2017	Ben Guerdane

T64	Senior municipal-level bureaucrat	08 February 2017	Ben Guerdane
T65	Formal small-scale businessman and activist	09 February 2017	Ben Guerdane
T66	Civil society activist and small-scale smuggler of gasoline and smaller licit goods	10 February 2017	Ben Guerdane
T67	Local resident, former gasoline smuggler	11 February 2017	Ben Guerdane
T68	Wholesale smuggler (licit goods), civil society activist	11 February 2017	Ben Guerdane
T69	Local resident, former gasoline smuggler	13 February 2017	Ben Guerdane
T70	Textile smuggler	13 February 2017	Ben Guerdane
T71	Senior municipal bureaucrat	14 February 2017	Ben Guerdane
T72	Small-scale gasoline smuggler	16 February 2017	Djerba (Houmt Souk)
T73	Senior Tunisian academic	17 February 2017	Medenine
T74	Informal vendor in the city market	18 February 2017	Medenine
T75	Young local resident	18 February 2017	Medenine
T76	Cigarette smuggler	19 February 2017	Medenine
T77	Smuggler, licit goods, originally from Hama	19 February 2017	Medenine
T78	Smuggler, fruit and vegetables on the 'desert route'	19 February 2017	Medenine
T79	Senior Tunis-based researcher and policy analyst	22 February 2017	Tunis
T80	Tunis-based academic working on Tunisian politics	28 February 2017	Tunis
T81	Tunisian academic and policy analyst	28 February 2017	Tunis
T82	Mid-level municipal bureaucrat	03 March 2017	Ben Guerdane
T83	Civil society activist	03 March 2017	Ben Guerdane

T84	Senior municipal-level bureaucrat	03 March 2017	Ben Guerdane
T85	Civil society activist, local cultural organiser	03 March 2017	Ben Guerdane
T86	Local resident	04 March 2017	Near Tataouine
T87	Large-scale smuggler of various goods, coordinator of multiple transporters	04 March 2017	Rural borderland between Ben Guerdane and Tataouine
T88	Senior municipal bureaucrat	04 March 2017	Ben Guerdane
T89	Former high-level municipal bureaucrat, formal-sector businessman	05 March 2017	Ben Guerdane
T90	Senior local civil society organiser	05 March 2017	Ben Guerdane
T91	Senior civil society activist	05 March 2017	Ben Guerdane
T92	Wholesale smuggler (licit goods)	05 March 2017	Ben Guerdane
T93	Official in regional economic infrastructure development activities	05 March 2017	Ben Guerdane
T94	Wholesaler of smuggled gasoline	06 March 2017	Ben Guerdane
T95	Wholesaler of smuggled gasoline, former informal financial services provider	06 March 2017	Ben Guerdane
T96	Wholesale smuggler (licit goods), civil society activist	06 March 2017	Ben Guerdane
T97	Large-scale smuggler of various licit goods	07 March 2017	Ben Guerdane
T98	Small-scale informal vendor of household items, Souk Maghrebi	07 March 2017	Ben Guerdane
T99	Senior municipal bureaucrat	07 March 2017	Ben Guerdane
T100	Civil society activist, specialising in corruption	09 March 2017	Tunis

T101	Member of parliament	11 July 2017	Tunis
T102	Member of parliament	12 July 2017	Tunis
T103	Academic working on migration	14 July 2017	Tunis
T104	Local resident, former gasoline smuggler	17 July 2017	Ben Guerdane
T105	Wholesale smuggler (licit goods), civil society activist	17 July 2017	Ben Guerdane
T106	Wholesaler of smuggled gasoline	18 July 2017	Ben Guerdane
T107	Senior civil society activist	18 July 2017	Medenine
T108	Small-scale vendor, contraband gasoline	19 July 2017	Zarzis
T109	Large-scale smuggler of various licit goods	20 July 2017	Ben Guerdane
T110	Local resident, former gasoline smuggler	20 July 2017	Ben Guerdane
T111	Former pharmaceutical smuggler, formal sector entrepreneur	20 July 2017	Ben Guerdane
T112	Senior municipal bureaucrat	20 July 2017	Ben Guerdane
T113	Senior municipal-level bureaucrat	20 July 2017	Ben Guerdane
T114	Civil society activist in Western Libya	25 July 2017	Tunis
T115	Policy analyst	26 July 2017	Tunis
T116	Policy analyst working on border security	26 July 2017	Tunis
T117	Tunisian academic and policy analyst	28 July 2017	Tunis
T118	Tunis-based researcher	28 July 2017	Tunis
T119	Senior official, relevant Tunisian ministry	28 July 2017	Tunis
T120	Minister, Ministry of Commerce	28 July 2017	Tunis

T121	Senior official, local employment bureau	05 September 2017	Ben Guerdane
T122	Medium-scale smuggler, bags and textiles, vendor	05 September 2017	Ben Guerdane
T123	Textile smuggler and vendor in city market	05 September 2017	Ben Guerdane

Appendix I.2 Interview List Morocco

Code	Anonymised Description	Interview Date	Interview Location
M1	Moroccan academic	14 October 2016	Ifrane
M2	Small-scale informal vendor in a city market	30 October 2016	Oujda
M3	Vendor of kitchen equipment in a city market	10 November 2016	Oujda
M4	Senior official, regional administration Oujda-Angad	11 November 2016	Oujda
M5	Informal vendor (electronics), city market	15 November 2016	Oujda
M6	Civil society activist	16 November 2016	Oujda
M7	Former large-scale gasoline smuggler	19 November 2016	Oujda
M8	Formal sector entrepreneur and consultant	28 November 2016	Oujda
M9	Local senior official in a position connected to commerce	29 November 2016	Oujda
M10	President, development association	30 November 2016	Oujda
M11	Senior official, local environmental agency	30 November 2016	Oujda
M12	Mid-level municipal bureaucrat	02 December 2016	Oujda

M13	Head, formal business association	04 December 2016	Oujda
M14	Local official, INDH	05 December 2016	Oujda
M15	Moroccan senior academic	06 December 2016	Oujda
M16	Moroccan senior academic	07 December 2016	Oujda
M17	Senior municipal official	07 December 2016	Oujda
M18	Moroccan economist	14 December 2016	Rabat
M19	Senior Moroccan academic	15 December 2016	Mohammedia
M20	Journalist	15 December 2016	Casablanca
M21	Diplomat	03 April 2017	Rabat
M22	Civil society activist	09 April 2017	Oujda
M23	Moroccan academic	11 April 2017	Oujda
M24	Director, local development association	12 April 2017	Nador
M25	Local resident, teacher	12 April 2017	Nador
M26	Mid-level political operative and civil society activist	12 April 2017	Nador
M27	Formal sector entrepreneur	12 April 2017	Nador
M28	Activist at a local development association	13 April 2017	Nador
M29	Head of a local development association	13 April 2017	Nador
M30	Moroccan academic	13 April 2017	Nador
M31	Mid-level political operative and civil society activist	18 April 2017	Nador
M32	Vendor and senior figure in informal vendors associations	18 April 2017	Nador
M33	Former senior official, urban development	18 April 2017	Nador
M34	Vice-president, informal market association	20 April 2017	Oujda
M35	Former gasoline smuggler, now vendor in a city market	20 April 2017	Oujda
M36	Textile smuggler and vendor in a city market	20 April 2017	Oujda

M37	Vendor, alimentary products, city market	20 April 2017	Oujda
M38	Vendor, textiles, informal city market	20 April 2017	Oujda
M39	Informal electronics vendor in a city market	21 April 2017	Oujda
M40	Entrepreneur, former pharmaceuticals smuggler	23 April 2017	Oujda
M41	Small-scale smuggler and transporter of alimentary goods from Melilla	23 April 2017	Oujda
M42	Small-scale smuggler of various licit goods from Melilla	23 April 2017	Oujda
M43	Vendor of shampoo, city market	23 April 2017	Oujda
M44	Vendor of electronics, city market	23 April 2017	Oujda
M45	Vendor of iron goods, city market	23 April 2017	Oujda
M46	Head of informal market association and textile trader	25 April 2017	Nador
M47	Regional official, Ministry of Commerce	26 April 2017	Nador
M48	Senior Figure, local market association & informal vendor	27 April 2017	Oujda
M49	Textile smuggler, activist, local market association	27 April 2017	Oujda
M50	Vendor, smuggled Underwear in a city market	27 April 2017	Oujda
M51	Moroccan academic	28 April 2017	Oujda
M52	Former textile smuggler, textile vendor, city market	29 April 2017	Oujda
M53	Small-scale vendor, informal city market	30 April 2017	Oujda

M54	Former gasoline smuggler, civil society activist and community leader	30 April 2017	Small rural community near the Algerian Border
M55	Small-scale smuggler and transporter of alimentary goods from Melilla	30 April 2017	Oujda
M56	Small-scale smuggler of various licit goods from Melilla	30 April 2017	Oujda
M57	Informal vendor of smuggled pharmaceuticals	30 April 2017	Oujda
M58	Vendor of smuggled textiles in a city market	30 April 2017	Oujda
M59	Vendor and market association activist, city market	30 April 2017	Oujda
M60	Mayor, municipality of Oujda	02 May 2017	Oujda
M61	Senior official, regional tax office	03 May 2017	Oujda
M62	Local politician	04 May 2017	Oujda
M63	Senior regional customs official	04 May 2017	Oujda
M64	Civil society actor and senior academic	04 May 2017	Oujda
M65	Head of a regional development association and municipal bureaucrat	04 May 2017	Oujda
M66	Former senior regional bureaucrat in a commerce-related position	06 May 2017	Nador
M67	Mid-level political operative and civil society activist	08 May 2017	Nador
M68	Emigrated resident returning for an investment conference	08 May 2017	Nador
M69	Local mid-level bureaucrat in a position connected to commerce	08 May 2017	Nador

M70	Official, Chamber of Commerce	11 May 2017	Oujda
M71	Mid-level bureaucrat, agricultural development agency	12 May 2017	Oujda
M72	Bureaucrat, agricultural development agency	12 May 2017	Oujda
M73	Mid-level Bureaucrat, regional agricultural development Agency	12 May 2017	Oujda
M74	Mid-level bureaucrat, regional agricultural development agency	12 May 2017	Oujda
M75	Senior Figure, local market association & informal vendor	14 May 2017	Oujda
M76	Medium-scale textile smuggler with a stall in a city market	14 May 2017	Oujda
M77	Vendor of smuggled sneakers in a city market	14 May 2017	Oujda
M78	Senior bureaucrat, urban planning agency	15 May 2017	Oujda
M79	Local microcredit provider	15 May 2017	Oujda
M80	Senior local administrator, development agency	15 May 2017	Oujda
M81	Senior figure, local market association & informal vendor	16 May 2017	Oujda
M82	Local bureaucrat closely connected to the emergency program for the border regions	16 May 2017	Oujda
M83	Informal vendor of sneakers in a city market	16 May 2017	Oujda
M84	Small-scale smuggler of alimentary goods between Melilla and Oujda	17 May 2017	Oujda
M85	Informal vendor of sneakers in a city market	17 May 2017	Oujda

M86	Researcher, journalist	18 May 2017	Rabat
M87	Official in a public body connected to the 'Auto-Entrepreneur Programme'	26 May 2017	Rabat
M88	Local mid-level bureaucrat in a position connected to commerce	30 May 2017	Nador
M89	Senior regional official connected to the electrification of borderland settlements	01 June 2017	Oujda
M90	Small-scale transporter of smuggled goods between Melilla and Oujda	03 June 2017	Oujda
M91	President, informal trade and market association	04 June 2017	Oujda
M92	Small-scale smuggler/transporter between Melilla and Oujda	04 June 2017	Oujda
M93	Senior figure in a local informal market association	05 June 2017	Oujda
M94	Head and staff of a local development association	06 June 2017	Suburb of Oujda
M95	Member of parliament	07 June 2017	Oujda
M96	Head of a small agricultural cooperative of former gasoline smugglers	07 June 2017	Rural community near the Algerian border
M97	Vendor of smuggled textiles in a city market and head of a market association	07 June 2017	Oujda
M98	Women's cooperative near the Algerian border benefitting from the emergency borderland programme and its local administrator	08 June 2017	Rural community near the Algerian border

M99	Small-scale smuggler and transporter of alimentary goods from Melilla	11 June 2017	Oujda
M100	Former gasoline smugglers, current family agricultural cooperative	14 June 2017	Small rural community near the Algerian Border
M101	Former gasoline smuggler	14 June 2017	Urban community near Oujda
M102	Former gasoline smuggler, head of agricultural cooperative	15 June 2017	Small urban community near Oujda
M103	Former gasoline smuggler, member of agricultural cooperative	15 June 2017	Small urban community near Oujda
M104	Head of agricultural cooperative, former smuggler	15 June 2017	Small urban community near Oujda
M105	Mid-level administrator, regional administration	15 June 2017	Oujda
M106	Local Politician and formal sector entrepreneur	20 June 2017	Oujda
M107	Member of parliament	23 June 2017	Oujda
M108	Senior official, Agence Orientale	23 June 2017	Oujda
M109	Head of an agricultural cooperative near the Algerian border	06 July 2017	Oujda
M110	Former gasoline smuggler	07 November 2016	Suburb of Oujda
M111	Former human trafficker	07 November 2016	Suburb of Oujda

Appendix I.3 Interview List Melilla

Code	Anonymised Description	Interview Date	Interview Location
ML1	Formal sector businessman and consultant	07/05/2017	Melilla

ML2	Academic	28/05/2017	Melilla
ML3	Three members of the Spanish riot police	29/05/2017	Melilla
ML4	Spanish customs official	30/05/2017	Melilla
ML5	Academic	25/07/2017	Melilla

Appendix I.4 Focus Group List

Code	Focus Groups: Description	Date	Location
FG1	Vendors Souk Maghrebi (1)	04 September 2014	Ben Guerdane
FG2	Vendors Souk Maghrebi (2)	04 September 2014	Ben Guerdane
FG3	Vendors Souk Maghrebi (3)	10 September 2014	Ben Guerdane
FG4	Former gasoline smugglers Morocco (1)	26 October 2016	Small rural community near the Algerian Border
FG5	Local unemployed university graduates	09 February 2017	Ben Guerdane
FG6	Civil society activists working on informal vendors	17 February 2017	Medenine
FG7	Former gasoline smugglers Morocco (2)	30 April 2017	Small rural community near the Algerian Border

Appendix II: Memorandum of Understanding for the
Procedures at the Ras Jedir Border Crossing in
January 2017

Appendix II.1 Translated Text

Redacted, please contact author.

Redacted, please contact author.

Redacted, please contact author.

Appendix II.2 Copies of the Original Text



Redacted, please contact author.

*Figure 22: Page 1 of the MOU for procedures at the Ras Jedir Border Crossing
(Picture: Author, document received from one of the negotiators)*

Redacted, please contact author.

*Figure 23: Page 2 of the MOU for procedures at the Ras Jedir Border Crossing
(Picture: Author, document received from one of the negotiators)*

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