

African Policy Circle

The Role of Civil Society Organizations in Improving National Policy

**A Case Study of Nigeria's Trade
Negotiations in the EU-ECOWAS
Economic Partnership Agreement**

Position Paper

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Over the past years, a worrying trend has set in across Africa: civil society space has been shrinking in what has been called “the biggest crackdown on civil society since the end of the Cold War.” This crackdown manifests itself in “verbal hostility from politicians, new laws and regulations that curtail their ability to operate, and outright violence.”¹ Legal restrictions, as well as outright state harassment and intimidation, are on the rise across the continent.²

The Kenyan government, for example, has tried to pass restrictive laws against non-governmental organizations (NGOs)³ which would have capped foreign funding and imposed excessive regulation.⁴ The NGO Bureau deregistered hundreds of organisations⁵ and the government has passed restrictive media laws.⁶ In Uganda, laws introduced in recent years have systematically tightened the space for civil society: this includes requiring that all civil society organizations (CSOs) re-register, and imposing restrictions and giving government extensive powers to deny re-registration.⁷ Even South Africa has seen increased restrictions on the right to protest, as well as the antagonization of CSOs by state and security forces through the denunciation and surveillance of activists.⁸

This shrinking space can be explained by a confluence of factors: namely, authoritarian governments’ fear of critical voices; new donor countries that do not attach any conditionalities, such as the promotion of a free and open society, to their loans; Western aid to anti-terror efforts, which can be a mask for suppression of government critics; and the Arab Spring’s example of how civil society can threaten entrenched rulers.⁹

While restricting civil society space violates the human rights of engagement and

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- 1 Jochen Luckscheiter and Layla Al-Zubaidi, “Editorial,” in *Under Pressure: Shrinking Space for Civil Society in Africa*, n.d., 4.
 - 2 United States Agency for International Development, “The 2014 CSO Sustainability Index For Sub-Saharan Africa” (2015), <https://www.usaid.gov/sites/default/files/documents/1866/2014%20Africa%20CSOSI%20FINAL.pdf>.
 - 3 Includes Civil Society Organizations (CSOs) and other private sector organizations
 - 4 Njeri Kabeberi, “The Role of the State in Shrinking Political Spaces for CSOs in Kenya,” *Under Pressure: Shrinking Space for Civil Society in Africa*, Perspectives: Political Analyses and Commentary, no. 3 (2016): 28–29.
 - 5 The International Center for Not-for-Profit Law, “Closing Civil Space: Impact on Development and Humanitarian CSOs,” *Global Trends in NGO Law* 7, no. 3 (September 2016): 15.
 - 6 Njeri Kabeberi, “The Role of the State in Shrinking Political Spaces for CSOs in Kenya,” 30.
 - 7 CIVICUS, “State of Civil Society Report” (2016), 86, <http://www.civicus.org/index.php/en/socs2016>.
 - 8 Chumile Sali, “A View from the Ground: State-Civil Society Relations in South Africa. Interview.,” *Under Pressure: Shrinking Space for Civil Society in Africa*, Perspectives: Political Analyses and Commentary, no. 3 (2016): 17–19.
 - 9 CIVICUS, “State of Civil Society Report.”

action, it is also invariably counter-productive. Critical policy decisions are better formed when they are subjected to the crucible of debate and backed by evidence-based research. Civil society organizations play a crucial role in this respect and can, among other functions, mediate between individuals, the private sector, and the government, bring new knowledge to the table, promote transparent and accountable policy processes, and contribute to good governance.

In addition to the normative case for the role of CSOs in society, another line of reasoning exists for removing the restrictions on CSOs that have arisen across the continent: the value of CSOs in improving policy decisions and protecting national interests. The following case study on the Nigerian trade negotiations demonstrates this point. The study assesses the level of participation and effectiveness of Nigerian NGOs in the EU-West African EPA. The aim is to first identify key successes of Nigerian NGOs in the EPA negotiations so as to make a case for their usefulness and support in policymaking; and second, highlight key issues that constrained a more vigorous participation of CSOs, with corresponding recommendations for future CSO engagements in policymaking.

How Nigerian CSOs Shaped Trade Negotiations¹⁰

After more than ten years of intense trade diplomacy, the European Union (EU) and West African governments concluded on June 30, 2014 their negotiations of an Economic Partnership Agreement (EPA). Sixteen West African countries (including Nigeria) participated in the trade negotiations.¹¹ The objective of the EU–West Africa EPA is to facilitate free trade, greater regional integration, and economic development while protecting infant industries in West Africa. The core of the trade agreement is an immediate removal of 100 percent of custom duties for goods entering the EU from West Africa, and a gradual removal of up to 75 percent of tariff lines for products from the EU into West Africa. Although fluctuating over time, 15 NGOs (largely CSOs) from 11 West African countries were officially recognized and involved in the negotiations.

The signature process is currently underway, as Nigeria, Gambia, and Mauritania are yet to sign the EPA to date. Particularly, Nigeria and Gambia have refused to sign mainly because of continued civil society advocacy and lobbying against the trade agreement.

10 In assessing the effectiveness of CSO participation in the EU-West Africa EPA, this qualitative study employs a two-tier implementation approach involving secondary (desk-based) research and primary research (interviews) with key state and non-state actors from Nigeria involved in the EU-West Africa EPA negotiations. Particularly, responses were collected from the national office of the Economic Community of West African States (ECOWAS) under the Ministry of Foreign Affairs, as well as the National Association of Nigerian Traders (NANTS), one of the two CSO bodies invited to the EPA negotiation table, both at the national and international levels.

11 Economic Partnership Agreement: <http://www.epa.ecowas.int/>. For more details: Kohnert, Dirk (2014), “African Agency and EU–African Economic Partnership Agreements,” *Africa Spectrum*, p. 49, p. 3, 149-155

In Nigeria, CSOs have campaigned against what is believed to be the possible damage to West Africa's fragile economies from the opening up of the Nigerian markets to the EU. An influential group of NGOs played a major role in questioning the positive impact of the EPA and were highly effective in shaping the Nigerian perception of the EPA and the trade negotiation decisions of the national government; in particular, the National Association of Nigerian Traders (NANTS) and the Manufacturers Association of Nigeria (MAN) played key roles, from articulating the interest and concerns of the public to providing evidence-based analyses to support arguments.

The main argument of Nigerian NGOs, led by NANTS and MAN, is that, as 95 percent of Nigeria's exports to the EU are oil- and gas-dependent, and thus do not incur EU import duty, there is a greater need for the government to protect the nation's growing industries and encourage value-addition. According to World Bank estimates, signing the EPA would cause a mere 0.8 percent decrease in Nigeria's fiscal revenue over 20 years, a slight decrease in consumption prices by 0.3 percent, an increase in imports between 0.8 and 1.8 percent, as well as increased profitability for 63 percent of companies (with only 0.5 percent becoming unprofitable) by 2035.¹² However, Nigerian NGOs, led by MAN, estimate that Nigeria would incur significant revenue losses amounting to US\$1.3 trillion if the country signs the EPA, as they argue that existing manufacturing industries will become uncompetitive with the influx of cheaper finished products from EU countries.¹³ They have asserted that the Nigerian economy is not strong or prepared enough to take advantage of the European market. At an August 2016 roundtable discussion organized by the economic and social rights group Social Action, participants argued that some of the terms of the EPA would restrict Nigerian manufacturers and trading activities with catastrophic implications for domestic production, employment generation, and poverty alleviation. Thus, participants urged the Nigerian government to continue to reject the deal, in keeping with the preceding government administration, until the concerns of Nigerians were addressed so as to allow for an EPA that is mutually beneficial.¹⁴

The critical view of CSOs and private sector representatives on the EPA was repeatedly published through press releases in major newspapers such as *The Guardian*, *Punch*, *Leadership*, and *Thisday*, while interviews with key CSO representatives were aired on major TV channels and radio stations, notably *Nigerian Television Authority (NTA)*, *African Independence Television (AIT)*, and *Cool FM*, among others. In addition, NANTS regularly published in-house articles, impact studies, and analyses on issues pertaining to the EPA in its Regional Trade Advocacy Series, a subset of its ECOWAS

12 European Commission, ECOWAS, UEMOA (2015), "West Africa – European Union Economic Partnership Agreement (EPA)," Lagos Business School Breakfast Club. October 7, 2015.

13 "Do not Sign ECOWAS/EU Economic Partnership Agreement – MAN to Buhari," *Breaking Times*, September 26, 2016, <http://breaking.com.ng/nigeria/do-not-sign-ecow%C2%ADaseu-economic-partnership-agreement-man-to-buhari/>.

14 Udo, Bassey "Ignore European Union, don't sign EPA, group tells Nigerian government," *Premium Times*.

Vanguard publications. In addition, NANTS disseminated information from the public to the government and vice versa, while mobilizing online and offline campaigns.

Through such evidence-based analyses and dissemination activities, NGOs painted a comprehensive and vivid picture of the impact of the EPA on Nigeria's economy and advocated for rejecting such a trade deal. While the Nigerian government itself showed little enthusiasm for the EPA, there is significant evidence to suggest that the active involvement of NGOs influenced the Nigerian government's decision not to sign the agreement. In an interview, the director of the ECOWAS national office affirmed that the government's decision on the EPA followed consultations with key non-state actors of which a majority made the case against signing the EPA. Particularly, the Vice-President of Nigeria, Yemi Osinbanjo, stated during the Dakar meeting of West African leaders in June 2016 that his country's stance on the EPA was informed by consultations with MAN and other economic actors.¹⁵

In conclusion, the active participation of NGOs helped inform the decision of the Nigerian government regarding the EPA negotiation and thus helped to protect the national interest.¹⁶ This was possible because those NGOs operated in a policymaking environment open to external input.

Lessons Learned From Nigeria

Despite the ability of the National Association of Nigerian Traders (NANTS) and the Manufacturers Association of Nigeria (MAN) to influence the outcome of the EPA negotiations in Nigeria, a number of issues affected how well these NGOs and other CSOs could actually participate in the policymaking process.¹⁷

- **Lack of expertise:** First, the President of NANTS noted that, due to a dearth of expertise on the technicalities of trade matters, very few non-state actors were engaged in the consultation process during the EPA negotiations. The topic of trade is complex and technical, and only few CSOs could support MAN and NANTS with evidence-based policy analyses and impact studies needed to back advocacy.

15 "Nigeria explains why it has not signed the EU-ECOWAS trade agreement," *Premium Times*, June 5, 2016, <http://www.premiumtimesng.com/news/more-news/204731-nigeria-explains-not-signed-eu-ecowas-trade-agreement.html>.

16 "Buhari: Why Nigeria is yet to Sign Economic Partnership Agreement with EU," *Business Times*, 2016, <http://www.businesstimes.com.ng/buhari-why-nigeria-is-yet-to-sign-economic-partnership-agreement-with-eu/>

17 "Report of Civil Society Strategy Meeting on 'Advocacy Around Africa's Trade and Development Challenges'," Third World Network-Africa (TWN-Africa) and the United Nations Economic Commission for Africa (UNECA), March 2016. The issues identified are based on the interview with the President of NANTS, and discussions during the CSO Strategy Meeting on "Advocacy Around Africa's Trade and Development Challenges"

Building the technical capacity of CSOs is central and should be supported by encouraging partnerships between non-research CSOs, universities (with expertise in international relations) and other research institutions (such as think tanks). Bigger and more resourceful organizations, often from the Global North, could strive to aid their colleagues in building capacity in these technical areas.¹⁸ Private, national, and international bodies are urged to support capacity building. For example, NANTS has set up an institute for trade to train interested people, including young researchers.

- **Low financial resources:** Second, with the exception of MAN and NANTS, which were supported with funds to conduct research and attend these meetings at the national and international levels, the participation of other CSOs was greatly curtailed by the lack of financial resources. To remedy this, national and international organizations as well as donors are encouraged to expand their funding to CSOs especially for trade-related issues, as trade is vital to economic diplomacy, poverty eradication, development, and growth. Most Official Development Assistance (ODA) from Organisation for Economic Co-operation and Development (OECD) countries goes to governments, while an ongoing analysis of funding patterns suggests that donor support for CSOs has plateaued.¹⁹
- **Lack of coordination:** Third, a more unified front and better coordination would help improve information flow and greatly improve the effectiveness of CSOs advocacy. While information on the EPA negotiations was well published and visible to CSOs at the negotiation table, there seemed to be a break or a lag in transmitting information down to CSOs that were not directly involved in the negotiations. For instance, only staff members and participating state and non-state actors could access key documents on the ECOWAS website. It is critical for participating CSOs to transfer such documents broadly to aid the advocacy of a wider group of CSOs. At the international level, better information flow would have allowed other CSOs and countries to better understand the reason why Nigeria has so far refused to sign the EPA agreement. To promote coordination and information flow, domestic and transnational meetings should be complemented by other contact opportunities for CSOs to follow up and advance the work of these meetings.

18 CIVICUS, "State of Civil Society Report," 182.

19 Ibid., 59.

About the African Policy Circle

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