

**RESEARCH ARTICLE**

# **Tackling State Vulnerabilities through Responsible Legislation: An Assessment of Nigeria's National Assembly in the Fourth Republic (1999-2013)**

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## **Abstract**

This paper assesses the effectiveness of the legislative arm of government in Nigeria's Fourth Republic in tackling common vulnerabilities that threaten not just the stability but also the legitimacy of the state and its relations with the citizenry, who constitutes the electorate. It borrows the concept of 'vulnerability' from the field of information technology, defines the idea of responsible legislation and uses these to make a tentative statement to the effect that state vulnerabilities are strong indications of state failure in the near future, which the legislature should address through responsible representation and legislation in a democracy. The paper identifies several vulnerabilities of the Nigerian state in the Fourth Republic and assesses the extent to which responsible legislation has assisted in addressing them. After pinpointing the reasons for the levels of legislative performance experienced so far in the Fourth Republic, the paper makes recommendations for corrective actions in the identified areas of state vulnerabilities towards boosting the confidence of the electorate in democracy by enhancing legislative performance through responsible legislation.

**Keywords:** *State vulnerabilities, Responsible legislation, Nigeria's Fourth Republic.*

## **Introduction**

Democracy is about the people taking their destinies in their own hands, affecting their present and shaping their futures in line with their desired hopes and expectations. Most often in modern society, societies do this indirectly through their representatives who are given the mandate to make good laws on behalf of the people. Such bodies of representatives constitute the legislative arm of government. The existence of the legislature is the main qualitative difference between a democracy and other forms of government such as dictatorships and autocracies. Military and other forms of dictatorial regimes are anti-people and have no room for legislatures, which represents people's power.

There is, therefore, an intrinsic value in associating the legislature with democracy. It follows, therefore, that a legislative arm of government must justify its existence by

impacting positively on the lives of the citizenry in a democracy. This paper assesses the impact of the legislature on the lives of Nigerians by looking at how this institution has helped the country and her citizens to tackle some of her greatest vulnerabilities in the Fourth Republic, beginning from 1999.

## **Meaning, Structure and Functions of the Legislature**

The legislature is one and arguably the "first" of the three arms of government [1], the other two being the executive and the judiciary. Although it performs several other functions, the primary task of the legislature is that of law-making for the peace, order and good governance of the state [2, 3]. It derives its mandate from the citizens who also constitute the electorate, while its powers flow from the constitution. For this reason, it is popularly known as the "people's branch" of government [1]. This emphasizes the fact that the

legislature is an outcome of the citizens' freedom to choose their representatives through periodic elections. As a political institution, therefore, the legislature symbolizes the main grain of the idea of representation which is inherent in modern indirect or representative democracy.

In many political systems, the legislature is established by the constitution, takes different forms and exists at different levels of government. The legislature (otherwise called Congress) is established in Article 1 of the American Constitution. In Nigeria, the legislature is called the National Assembly and is established by virtue of chapter four of the 1999 Constitution of the Federal Republic of Nigeria. Chapter Four, Part 1 and Section 47 of the constitution states that "there shall be a National Assembly for the Federation, which shall consist of a Senate and a House of Representatives" [4].

The Nigerian National Assembly is, therefore, bicameral, with the upper chamber, the Senate, consisting of one hundred and nine (109) members with three senators representing each of the thirty six states, plus one representing Abuja, the Federal Capital Territory (FCT). The House of Representatives is more representative of the citizenry in numerical terms, consisting of three hundred and sixty (360) members from the thirty-six states and the FCT. In addition, there is a House of Assembly in each state of the federation and a legislature in each of the seven-hundred and seventy six (776) local government councils of the federation.

The National Assembly functions on a network of political parties that are represented; committees and sub-committees in both the House of Representatives and Senate; and a National Assembly Service Commission that attends to staff matters of appointment, discipline, promotion, conditions of service, welfare, retirement, etc in the National Assembly.

### **Powers and Functions of the Nigerian Legislature**

The legislative powers of the Nigerian federation are vested in the National Assembly and its jurisdiction covers various items listed as follows:

- The exclusive legislative list of subjects, which are set out in Part I of the Second Schedule to the 1999 Constitution. These are items on which only the federal government can make laws;
- The concurrent legislative list of subjects, which are contained in Part II of the Second Schedule to the 1999 constitution. Both the federal and

state governments can legislate on items on this list. However, if there is a conflict between federal and state laws on a matter on the concurrent list, the state law will give way to the federal law, to the extent of the inconsistency;

- Sequel to the introduction of presidential system of government at the third tier of government in 1989, the 1999 constitution makes provision for the legislatures of local government councils to make laws on certain items. This is the residual list of subjects which is set out in the Fourth Schedule to the constitution [5].

In concrete terms, apart from the mandate to legislate for the peace, order and good governance of Nigeria or any part thereof in accordance with the constitution, the legislature performs several other functions. These include representation, constituent duties, electoral functions, certain judicial and financial functions, supervision of the executive and approval of executive nominations to certain offices.

To a large extent, therefore, the legislature remains the most potent check on power, real or potential in democracies. The actions and inactions of the legislature goes a long way in determining the direction of public policy and the quality of life that citizens will be led to live, eventually. This is why the character, strength and resilience of the legislature is an important indication of the extent to which the directive principles of state policy can be pursued and achieved. An assessment of the effectiveness of this organ of government is therefore vital to a quest to gauge the health of any democratic state and the welfare of its citizens.

### **The Concept of Responsible Legislation**

Legislating for good governance and the promotion of citizens' welfare constitutes the primary duty of legislatures, being the best agent of the interest of the electorate in democracies. Therefore, the extent to which it performs this task to promote the overall interest of the electorate and the country at large, determines the level of responsibility of a legislature. Responsibility in legislation can be conceived to mean a sense of mission and purpose that drives lawmakers to strive to set standards, make rules, regulations and laws that best addresses individual and state challenges and vulnerabilities, thereby advancing the interests of the electorate (the owners of the mandate, according to the social contract theory) and the state by addressing their most urgent and critical needs.

In deeply fragmented societies that desire to remain politically united for the purpose of pursuing common agenda towards securing common interests, responsible lawmaking would, in addition to securing the interests of the electorate, include a quest to tackle common problems (or vulnerabilities) in such a way that narrows social differences, and widens or advances areas of commonality, cooperation and cohesion. This would suggest a desire and an attempt to strengthen the formal state structure by preserving the freedoms and unity of its peoples, as well as their separate and collective identities.

In this sense, responsible legislation can be a means of building positive state-society relations in which the strength and resilience of the state, its institutions, structures, processes, component groups and administrative units are strengthened and assisted to deliver the expected benefits (or dividends) of democracy to the electorate. On the side of society, responsible legislation would seek not to muzzle, but to preserve the unique identities of the different social units and seek how their strengths can be made to compliment state influence, power and resources. In this way, national vulnerabilities would gradually to give way strength, optimism, loyalty and patriotism to the state and development of the component units.

### The Idea of State Vulnerability

Vulnerability is primarily an information technology (IT) concept that connotes the weakness of an asset or group of assets that can be exploited by one or more threats where an asset is anything that has value to an organization, its business operations and their continuity, including information resources that support the organization's mission [6]. It is a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach or a violation of the system's security policy [7]. Vulnerability implies susceptibility to various threats [8] and the probability that threat capability exceeds the ability to resist the threat [9].

In socio-political systems, vulnerability connotes the characteristics of a system which cause it to suffer a definite degradation (incapability to perform the designated task or fulfill a mission) as a result of having been subjected to a certain level of effects in an unnatural (manmade) hostile environment [10].

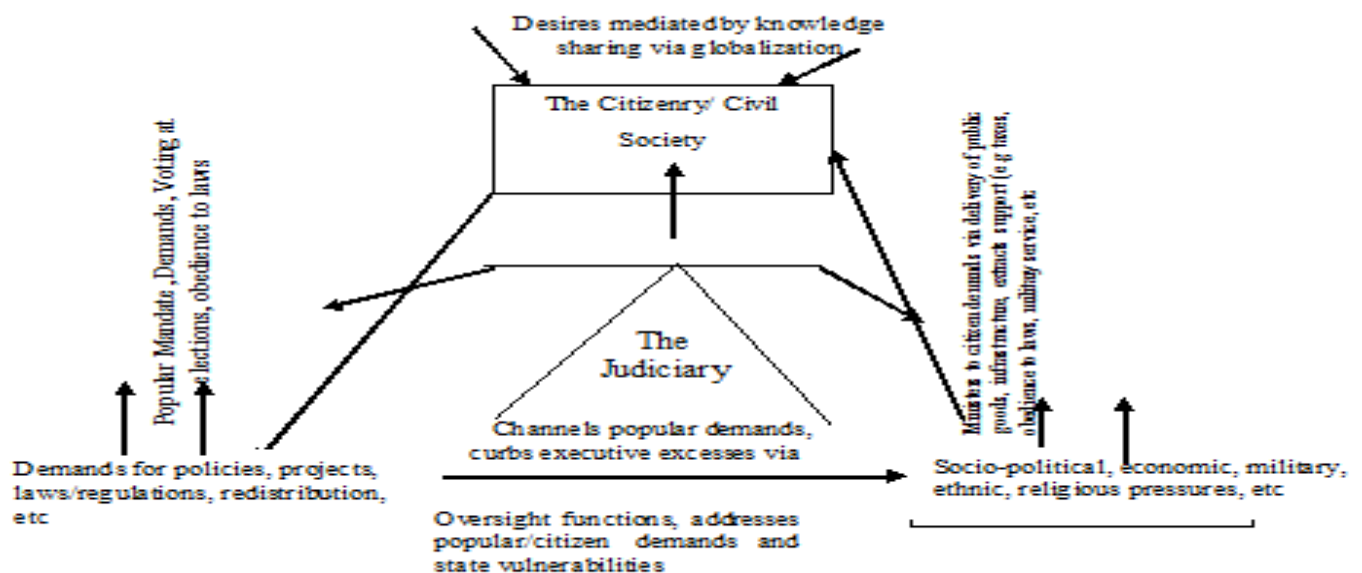
Whether in engineering or socio-political systems, vulnerabilities may result from several causes, which includes but are not limited to system complexity, design flaws, unchecked (uncontrolled) user inputs [11], familiarity [12], connectivity [13], and failure to learn from past mistakes [14, 15].

From the foregoing, one can conceive of state vulnerabilities as the challenges, flaws, weaknesses or degradations confronting state power, influence, integrity and legitimacy, which affects their capabilities to fulfill their mandates or perform actions that are expected of them as sovereign political entities, both internally to their citizens and externally, to members of the international community. These may range from the most basic expectations of the citizenry such as the provision of education, healthcare delivery, security, strengthening of the feelings of unity and oneness, maintenance and guarantee of citizens' rights and privileges, to the conduct of foreign relations in ways that will help satisfy citizens' desires, preserve state integrity and protect its sovereignty.

Vulnerability varies from one state to another, depending on history, economy, geography, social relations, etc. The Nigerian state is vulnerable to several forces that confront and threaten her continued existence, peace, prosperity and development and, by extension, the welfare and progress of her citizens.

Just as the most vulnerable point in most information systems is the human user, operator or designer [16], one of the most vulnerable elements or inputs in socio-political institutions or systems include the human operators, whether they operate as assets, threats or facilitators of socio-political actions by means of which institutions fulfill their mandates or perform their roles.

Because the legislature provides a strategic link between the state and the citizenry, it is an institution that is destined and designed to minister to the vulnerabilities of the state in its quest to fulfill its sacred mandate to the citizenry. It therefore stands at the state-citizen-society intersection, both to deliberately set standards to define and bolster state powers and responsibilities; define citizen rights, obligations and privileges; and to mediate state-society relations in terms of joint goals, expectations, targets and an agreeable definition of limits to state power. This ideal role of the legislature can be expressed diagrammatically as follows:



**Fig. 1 A:Diagrammatic representation of the strategic role of the legislature in addressing state vulnerabilities**

Source: Authors' imaginative conception of the strategic role of the legislature in addressing state vulnerabilities.

The legislature is a major pillar of democracy. Rousseau believed that the role of the legislature constituted one of the reasons for the success of ancient republics. For him, the legislator was:

*..An exceedingly rare figure in moments of history with superhuman responsibilities...to transform individuals and change human nature, alter the constitution with the purpose of strengthening it, and bring about a complete moral existence to an otherwise partial one [17].*

The legislature, therefore, is expected to be constituted of charismatic individuals, with semi-divine qualities [18]. They are expected to act as agents of the citizens who also constitute the electorate, and act to consolidate the state by addressing matters of state interest and vulnerability.

Unfortunately, legislatures have declined in many countries. Ranney [19] argues that, with regard to its traditional policy initiating functions, the legislature has lost ground to the executive, only to become mere checkers, revisers and critics of executive-initiated policies. Between the second half of the twentieth century and the dawn of the present twenty-first century, there have been quantum changes in the number of issues dealt with by legislatures, the need for professional inputs into many policies initiated by the legislature and the *modus operandi* of legislatures. Put together, these have affected the status and function of legislatures.

Anifowoshe [20] lists the reasons for the declining powers of the legislature to include the rise in the volume and complexity of issues dealt with by legislatures, which the size, available time and legislative decision-making processes cannot cope with easily. Another is that, although many bills are becoming technical in nature, many legislators lack the technical knowledge to deal with such issues, thereby rendering many lawmakers ineffective in the consideration of such matters. Other reasons cited by Anifowoshe for the reducing effectiveness of legislatures include the growing need for the executive to exercise emergency powers to deal with emergency situations; the limitations imposed on the powers of the legislature by pressure groups, public opinion and the growth of disciplined political parties.

### Tackling State Vulnerabilities through Responsible Legislation in Nigeria's Fourth Republic: An Assessment

It is important to assess the extent to which the legislature in Nigeria's Fourth Republic has helped to track, tackle and mitigate the country's vulnerabilities. This is because of the high hopes and expectations of Nigerians that democratization would help the country and her citizens to recover quickly from the desolation, cruelty and material impoverishment that were unleashed on them during the long years of military rule that ended on May 29, 1999.

It is also important to do this because the performance of the legislature can be seen as an index of how much confidence the electorates would be willing to invest in the idea of democratic rule. The thinking here is that if legislators who are directly elected are not representing the people well, then the people have little or no hope that democracy will, indeed, satisfy their expectations. This is capable of witting down their faith in democracy and reducing their stake in the democratic project.

From the inception of the Fourth Republic, Nigerians expected democratic rule to compensate for the struggles, trials and losses of the departing military regime. They also expected democratic rule to fulfill their hopes that were dashed with the annulment of the results of the June 12, 1993 general elections, which were believed to have been won by late Chief M.K.O Abiola of the Social Democratic Party. For the above reasons, responsible legislation was expected to help address the structural and operational vulnerabilities that naturally limit the capacity of the Nigerian state to fulfill the legitimate desires and expectations of Nigerians.

However, the expectation of a messianic legislature by the electorate in democracies may be misplaced if Rousseau's argument that popular sovereignty cannot be reposed in legislatures in democracies is true. His contention is that members of the legislature in indirect, representative democracy do not, in reality, represent the people. According to him:

*Sovereignty cannot be represented, for the same reason that it cannot be alienated ...the people's deputies are not, and could not be, its representatives; they are merely its agents; and they cannot decide anything faintly. And law which the people have not ratified in person is void; it is not law at all. The English people believe itself to be free: it is gravely mistaken. It is free only during the election of Members of Parliament; as soon as the members are elected, the people are enslaved; it is nothing [21].*

It is in light of the above that our assessment of the performance of the legislature in Nigeria's Fourth Republic will focus on certain areas of vulnerability of the Nigerian State that are affecting the interests and welfare of her citizens.

### **The Proclivity of the Nigerian State to Failure and Irrelevance**

Ekeh [22] conceives of state vulnerability as a reflection of dissonance between the typical African and his society, while Alozieuwa [23]

attributes it to either or both the nature of the state that was inherited at the end of formal colonialism, or the patrimonial and particularistic orientation of the competing power elites who inherited the post-colonial state. This situation affects the Nigerian state.

The economic and political indices of state failure have been enumerated by Rotberg [24] to include deteriorated standards of living, a lack of public goods and services, the flowering of corruption and rent-seeking behaviours in the public bureaucracy as well as pervasive economic stagnation. Indices of state failure on the political front include legislatures and bureaucracies that are manipulated and coerced into subservience and compromise, stifling of civil society or civil space; use and abuse of defence and security forces for parochial ends; excessive ethnic discrimination and discord; and the uncaring flaunting of stolen wealth at home and abroad [25].

The above-mentioned vulnerabilities have caused the Nigerian state to fail to minister to the needs and concerns of the average citizen, thus making it irrelevant to them. Instead of working to tackle these vulnerabilities by arresting the economic and political drift of the Nigerian State, the National Assembly in the Fourth Republic has made itself a willing institution for pulling down whatever is left of the state. Indeed, Leopold Sedar Senghor's description of African politics and political representation is true of our supposedly honourable members of the National Assembly. For them, politics is no longer:

*...a question of ...governing the state for the public welfare in the general framework of laws and regulations...but..a question of partisan politics – not even ideological tendencies- to place oneself, one's relatives, and one's clients in the cursus honorum, that is the race for preferment – the image of personal rule [26].*

Membership of Nigeria's National Assembly is simply a matter of class and cash, rather than of service, representation and integrity, even while the electorates whom they represent are languishing in poverty and want. Citing figures, Amaefule and Lartey [27] as well as Ajayi [28] reports Nigeria's National Assembly in the Fourth Republic as the most expensive worldwide. In terms of its taste for expensive cars, luxury apartments, fat travel allowances, fat wardrobe allowances and estacodes for travelling to perform their constitutional duties, the National Assembly is also one of the most ostentatious globally while its committees are very low in productivity.

Actually, they are 'Ghana-must-go' (i.e. money sharing) committees (This is based on the first-hand experience of the author while on a two-week assignment in the National Assembly, May 2008). To a large extent, therefore, it is true that:

*...the National Assembly has been in scandal mode since 1999 and has not changed. It is difficult to argue that the average legislator is interested in better legislation, or even legislation. The federal legislature, the world's best paid, is not the world's most patriotic or hardworking. It is the world's best paid because its members simply help themselves to the money [29].*

Evidences of the inability of the National Assembly in the Fourth Republic to tackle state failure and irrelevance include the escalation of violence in Nigeria since 1999, both ethnic and religious [23, 28]; lack of internal security and decaying infrastructure [30] and the 2012 ranking of Nigeria by the Fund for Peace as one of the 10 top failed states in Africa and the 14th in the World [31].

### **Corruption**

A second major vulnerability of Nigeria which the National Assembly has failed to tackle is corruption. That Nigeria is one of the most corrupt countries globally is no news. What is worrisome, however, is that the National Assembly that is expected to help the country overcome this vulnerability is itself, one of the state institutions that are most guilty of this vice. It is not just the best paid legislature worldwide [29], its successive leaders and leaderships have been guilty of corruption, to the extent that many of its leaders since the inception of the Fourth Republic in 1999 have been sent packing from office on account of corruption.

Some former corrupt leaders of the National Assembly include Senator Chuba Okadigbo, Evans Enwerem and Bunmi Etteh. Former House of Representative Speaker, Rt Hon Dimeji Bankole was also arraigned on corruption charges by the Economic and Financial Crimes Commission (EFCC) while Hon. Farouk Lawan, Chairman of the Petroleum Subsidy Probe Panel was involved in a controversial bribery scandal with business mogul, Femi Otedola. The 'Lawangate' scandal and others noted above constitute big dents on the integrity of the National Assembly. Since you cannot give what you do not have, the National Assembly has not been able to tackle this aspect of national vulnerability and malaise. It affects most National Assembly duties such as its committee system, approval of nominations to sensitive

posts, constituency projects, etc all of which deepens state vulnerability.

### **Wrong Conception of Representation and Politics in General**

A third state vulnerability that the National Assembly has failed to tackle is the wrong conception of politics as the preserve of thugs and social miscreants in society. For a country that recently emerged from the clutches of long years of military rule, the legislature is expected to grow citizens' confidence in democracy as a peaceful mode of governance in which only decent, selfless and patriotic citizens should take part. Unfortunately, the legislature from 1999, both at federal and state levels, has painted a picture of legislating as political thuggery and brigandage. It has done this many times when members engaged in free-for-all fights right in legislative chambers, under the full glare of newspaper and television cameras, to the shame of the elderly, the embarrassment of young Nigerians and scorn of foreigners. The most recent in this orgy of legislative violence was that of the Rivers State House of Assembly in July, 2013.

This unfortunate development has left many young Nigerians, who were born and raised during military rule, doubting whether democracy is, indeed, better than military rule as a mode of leading citizens to live the kinds of lives they desire.

### **Youth Unemployment**

A fourth state vulnerability that is easily identifiable in Nigeria is the problem of youth unemployment. This is one of the main reasons behind increasing criminality among youths and violence in the country, which constitutes threats to the peace, progress and development of Nigeria. The results of a 2006 World Bank Survey indicated that as many as 76.9% of youths in Nigeria are unemployed [32]. The situation can be traced to the lack of attention and emphasis on this issue in past national development plans and the requirements of downsizing the labour force, which was required by Structural Adjustment Programme (SAP) that Nigeria adopted under military rule.

Although many legislators rode to the National Assembly on the crest of promises to provide jobs for Nigerians and the youth in particular, no co-ordinated and harmonized efforts were made by members of the National Assembly to fulfill such promises. In addition, little effort has been made by the legislature in the Fourth Republic to improve finance and improve the capacities of the few programmes, institutions and agencies that

can create jobs and empower youths, such as the National Directorate of Employment (NDE), National Economic Empowerment and Development Strategy (NEEDS) and their counterparts at the state and local government levels.

The few efforts in job creation since 1999 have been hoisted by the executive at various levels of administration. Furthermore, such programmes lack national co-ordination since they are mostly used as baits on party supporters to make them faithful to the second-term in office ambitions of political chief executives. For this reason, they are meant for political jobbers, thugs and lack universal eligibility and appeal. The legislature has failed to address this area of state vulnerability and reduce criminality among Nigerian youth.

### **Infra structural Deficit**

Decaying infrastructure constitutes a fifth vulnerability of the Nigerian state, which the National Assembly has not been able to tackle in the Fourth Republic. Public infrastructure is decaying all over the country, without adequate provisions to maintain, upgrade or replace them so that citizens can enjoy them. Electricity supply is epileptic, supply is non-existent in many communities nationwide while a cloudy private-sector-driven reform is being implemented in this important sector of national life. public water supply is a luxury; the roads are death-traps while public health institutions are better regarded as mortuaries for the 'living dead'.

Legislators keep quiet while non-academic and academic staff in public educational institutions embarks on industrial actions for months to demand for better funding of educational institutions to enable them provide the minimum services for their students. On the other hand, private educational institutions are flourishing while our lawmakers patronize foreign hospitals for medical treatments that can be provided locally. Also, their children and wards attend private and foreign schools. As a result, the economy is wobbling while national morale is sloppy. Legislation has been responsible enough to address these challenges and vulnerabilities.

### **Sloppy Diplomatic Relations**

The National Assembly has not helped the Nigerian state to track and tackle her vulnerabilities in foreign or diplomatic relations. Foreign relations is important to a country, especially when it is viewed as another means of pursuing national goals of prosperity and

development by establishing new relations and strengthening existing ones with other countries. In the Fourth Republic, except under the Obasanjo administration between 1999 and 2007 when Nigeria's foreign relations appeared to have a focus, Nigeria's diplomatic relations from 2007 appears to have drifted, with neither serious signs of determinacy in the pursuit of goals, nor finesse in the conduct of its discussions, negotiations as well as planning and conduct of state visits. Even under the Obasanjo civilian administration of 1999 to 2007, certain foreign policy decisions were believed to have been arbitrary due to the personality of the president.

On the basis of the realities of the country's foreign relations, Ogunsanwo [33] opines that, although the same political party has ruled Nigeria since the commencement of the Fourth Republic in 1999, the federal government has continuously lacked "the staying power needed to see good (foreign) policies germinate and blossom". Unfortunately, the National Assembly Committee on Foreign Affairs has not been able to help put the government on the right track that can benefit Nigeria and help her citizens reap maximally from the reality of globalization. This, perhaps, informed Akinboye's [34] submission that in terms of the pursuit of the objectives of Nigeria's foreign policy, Nigeria was beautiful abroad but ugly at home. In other words, Nigeria's foreign policy has not pursued the best interests of Nigerians in the best ways possible.

### **Causes of Poor Legislative Performance**

Nigeria's many vulnerabilities have persisted in Nigeria's Fourth Republic due to the inefficiency, ineptitude and ill-will of many legislators and the National Assembly as an institution that is strategically placed to assist the state and the citizenry to address such challenges towards improving the capacities of the state to deliver the rewards (or dividends) of democracy to the citizenry. Many reasons have been advanced for this lack-lustre performance of the legislative arm of government to institute responsible legislation that can help to combat these national vulnerabilities. Ajayi [28] itemizes these to include instability of the legislative arm; inexperience of most law-makers; lack of genuine democrats in the National Assembly; Corruption and crises of integrity of many lawmakers; lack of trust, on the one hand between lawmakers and those they are supposed to represent and, on the other, between the National Assembly and the executive; jumbo salary; indiscipline and absenteeism; and lack of parliamentary autonomy by the National Assembly.

However, other remote causes of such poor performance by the National Assembly include lack of internal democracy in the political parties that field candidates for elective offices, including the legislature. Through this means, unpopular candidates are forced on the electorate. This also partly explains why it is 'moneybag politicians' who can bribe their ways through the campaigns and the electoral process while candidates who would serve the interests of the electorate genuinely are rejected. Once elected, such 'representatives' have little or no motivation to be committed to the electorate, or to the cause of addressing state vulnerabilities. They hardly report at their constituencies until the next round of elections draw near. Although they are given funds for constituency projects, they only gather a few cronies and execute a shabby project that may not add value to the lives of the citizenry. Thus, they are not accountable to the electorate. Rather, they commit themselves to re-cooping the monies they spent on electioneering campaigns, attend to the needs of their party leaders and prepare for a second term. For many representatives in this category, representative politics is simply business rather than an opportunity to address the needs of the electorate or the state through responsible legislative actions.

### Recommendations

In view of the above, the following recommendations are made in order to improve the capacity of the National Assembly to tackle these vulnerabilities and make Nigeria economically stronger, politically stable and socially more responsible and responsive to the needs of the citizenry.

One, there is a need for the Independent National Electoral Commission (INEC) to Enforce internal

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