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Rethinking Locus Standi in Nigeria: A Path to Environmental Justice

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Abstract

Access to environmental justice in Nigeria has long been hindered by restrictive locus standi rules that require litigants to demonstrate a direct, personal injury before they can be heard in court. This traditional common law approach, inherited from England, has proven ill-suited for environmental claims, which often involve collective harms such as pollution, deforestation, and ecological degradation. As a result, community-based claims and public interest suits have

been routinely dismissed, creating an accountability vacuum for environmental violations. Drawing from case law, doctrinal analysis, and comparative insights from the United States and India, this article critically examines the evolution of standing doctrine in Nigeria. It highlights the historic rigidity of Nigerian courts with the expansive, justice-oriented standing regimes found in India's public interest litigation system and the United States' procedural innovations. Special attention is given to the transformative 2019 Supreme Court decision in *Centre for Oil Pollution Watch v. NNPC*, which liberalised standing for environmental cases. The paper argues that this judgement marks a critical turning point and provides six key reform proposals to entrench a liberal standing regime. These reforms would enable broader public participation in environmental enforcement and ensure that legal frameworks align with global standards of environmental justice.

Keywords: *Locus Standi, Environmental Justice, Public Interest Litigation, Nigeria, Legal Reform*

Introduction

Access to courts is a cornerstone of environmental justice, yet in Nigeria this access has historically been curtailed by the doctrine of *locus standi* (legal standing).¹ *Locus standi* – Latin for “place to stand” – determines who has the right to sue. The concept evolved in the 19th-century English common law tradition, requiring a person to demonstrate a specific interest in a dispute before being heard.² Nigeria, inheriting this common law principle, embedded standing requirements in its legal system,³ which courts have interpreted to demand that a claimant show a special, personal harm to their own rights. In practical terms, a Nigerian litigant must prove that the alleged wrong affects them personally and directly, beyond the impact on the general public.⁴

The strict standing rules in Nigeria create significant challenges for environmental claims because these rules emphasize individual injury over collective harm. Issues like oil spills, pollution, and deforestation affect entire communities and ecosystems, yet courts have often

¹ Ngwu Godwin Emeka , Chioma Nnaji for Blessing and Maureen Obiageli Ugwu, ‘The Role of the Judiciary in Interpreting the Doctrine of “Locus Standi” in Environmental Pollution in Nigeria’ (2023) 2 *Law and Economy* 1.

² *Ibid.*

³ notably in Section 6(6)(b) of the 1999 Constitution.

⁴ David Tarh-Akong Eyongndi, Kingsley Osinachi Nnana Onu and Moses Arome Okwori, ‘Public Interest Litigation in Nigeria and Locus Standi Debacle in *Edun v. Governor of Delta State*’ (2025) 11 *Lentera Hukum* 291.

dismissed such cases for lack of personal injury. Ike⁵ identified this restrictive doctrine as a major barrier to legal enforcement of environmental rights. Many legitimate grievances go unheard because no single individual can prove a unique harm, undermining environmental justice at the threshold.⁶

The implications are significant. Nigeria's reliance on oil extraction, especially in the Niger Delta, has caused extensive pollution and ecological harm. While affected communities often seek redress, procedural barriers, particularly *locus standi*, have hindered access to justice. Courts long insisted that litigants prove harm "peculiar to them," turning away NGOs and community representatives even in clear cases of environmental violations.⁷ This meant public interest litigants such as non-governmental organisations (NGOs) or community representatives were turned away, even in cases of obvious environmental violations affecting large populations. This created a justice gap, as many victims were unable to hold polluters accountable.

This article examines how *locus standi* became a barrier to environmental justice in Nigeria and explores pathways for reform. It first examines the doctrinal origins and rationale for Nigeria's strict standing rules, then presents case law to illustrate how these rules have denied justice in environmental matters. A comparative analysis then highlights alternative approaches adopted in the United States and India. The U.S. has gradually developed procedural accommodations for environmental plaintiffs, while India's public interest litigation (PIL) regime revolutionised standing, allowing virtually any public-spirited individual or group to litigate on behalf of affected communities and ecosystems.

Crucially, the article discusses the transformative 2019 Supreme Court decision in *Centre for Oil Pollution Watch v. NNPC*,⁸ which recognised the standing of an NGO to sue in the public interest. This landmark judgement marks a significant departure from earlier judicial orthodoxy. The Court affirmed that environmental laws can be enforced by groups or individuals acting in good faith, even without personal harm. Building on this shift, the article proposes six reform measures to

⁵ Christine O Ike, 'The Exclusionary Principle of Locus Standi: An Obstacle to Justice in Public Interest Environmental Litigation in Nigeria' (2024) 20 *Unizik Law Journal* 72.

⁶Ibid.

⁷ Adeola Olufunke Kehinde, 'Is Nigeria Ready to Combat Environmental Problems? A Peep through Judicial Decisions of Nigerian Courts' (2024) 70 *AUC IURIDICA* 159.

⁸ [2019] 5 *NWLR* (Pt. 1666) 518.

consolidate and institutionalise broader standing in environmental cases. These include legislative amendments, judicial training, civil procedure reforms, and community legal empowerment strategies.

Locus *Standi* and Environmental Litigation in Nigeria

The requirement of locus *standi* in Nigeria originates from English common law and has been reinforced by constitutional interpretation. Under common law principles, only a person with a particularised interest or injury may initiate legal action. Historically, if a wrong affected the public at large (a “public injury”), it was the Attorney-General or an appropriate authority who was expected to sue, not a private individual, unless that individual could show “special damage” distinct from the general public.⁹ This principle was exemplified in the old rule for public nuisance: blocking a public waterway or polluting common resources was considered a wrong against the community, for which an ordinary person could not claim damages without showing a unique personal harm.¹⁰ Nigerian courts adopted this orthodox view to prevent so-called busybodies from filing suits without a direct stake.

Section 6(6)(b) of the 1999 Constitution vests judicial power in the courts to determine “matters between persons, or between government and any person” and has been interpreted as implicitly incorporating the common law standing requirement. In the seminal case of *Senator Abraham Adesanya v. President of the Federal Republic of Nigeria & Another*,¹¹ the Supreme Court adopted a narrow interpretation: a plaintiff must show that the action he complains of has adversely affected his civil rights or obligations in a personal way.¹² As Justice Bello famously stated, “standing will only be accorded to a plaintiff who shows that his civil rights and obligations have been or are in danger of being violated or adversely affected by the act complained of.”¹³ This pronouncement cemented the rule that courts can

⁹ Taofeeq N Alatise, ‘The Future of “Standing to Sue” in Environment and Climate Change Litigations in Nigeria’ (2022) 13 Nnamdi Azikiwe University Journal of International Law and Jurisprudence 28.

¹⁰ James L Huffman, ‘Public Nuisance: Public Rights, Private Rights and the Common Good’ (2022) 17 Journal of Law, Economics & Policy 314.

¹¹ (1981) 2 N.C.L.R. 358.

¹² Kingsley O Mrabure, ‘Application of Locus Standi under Nigerian Law’ (2016) 1 Ajayi Crowther University Law Journal 1.

¹³ Tunde I Ogowewo, ‘The Problem with Standing to Sue in Nigeria’ (1995) 39 Journal of African Law 1.

only be accessed by those with a direct, personal stake, effectively marrying the concept of standing with the justiciability of the dispute.

Nigerian courts have consistently required individuals to show a unique, personal injury to gain standing, even in cases of serious public harm. For example, a resident affected by widespread pollution could not sue unless they proved specific harm, like personal property damage distinct from others. This strict rule hindered public interest litigation, with particularly harsh effects on environmental protection.

Environmental harm rarely fits the model of individual injury. Pollution, deforestation, or ecosystem damage often affects many people and the environment collectively, with no one person able to claim exclusive harm. Nigeria's strict standing rules created a legal vacuum that, unless plaintiffs could tie their claims to a private right, courts dismissed them as generalised grievances. For instance, Nigeria's Environmental Impact Assessment (EIA) Act provides for environmental review procedures, but until recently it lacked explicit provisions granting any member of the public the right to sue for non-compliance.¹⁴ Enforcement of such public-interest-oriented laws was left to government agencies or to directly affected proprietors, leaving civil society groups and concerned citizens with no clear avenue if agencies failed to act.¹⁵

Moreover, under Nigerian law, many forms of environmental litigation were subsumed under tort law doctrines like nuisance, negligence, or trespass. A person with a farm damaged by an oil spill could seek compensation through a lawsuit based on private nuisance or negligence. But when environmental degradation is widespread,¹⁶ it usually falls under public nuisance, where only the Attorney-General or someone with special damage can sue. Although the consent of the Attorney General is no longer a strict requirement to initiate such actions, the common law still imposes stringent conditions for *locus standi*.¹⁷ Typically, affected communities would urge the government to take action. If the government was unwilling or complicit (a not

¹⁴ Environmental Impact Assessment Act Cap E12 LFN 2004, s 52.

¹⁵ Omozue Moses Ogorugba, Ejiro Tessy Kore-Okiti and Emmanuel Okwuokei, 'Assessing the Right to Sustainable Environmental Development in Nigeria' (2024) 05 International Research Journal of Multidisciplinary Scope 865.

¹⁶ For example, an oil spill affecting multiple villages or a systemic problem like gas flaring polluting the air shed.

¹⁷ Brown Etareri Umukoro and Moses Ogorugba Omozue, 'Prosecuting Environmental Pollution Cases in Nigeria: The Head of a Carmel Passing through the Eye of a Needle' (2024) 3 PPLRUNLAW REVIEW 1.

infrequent scenario in the Niger Delta's oil pollution crises), the communities were essentially locked out of court due to locus *standi* rules. In effect, the strict standing doctrine shielded both private and state actors from accountability for environmental wrongs: a polluter could not be sued by an NGO or an unaffected individual even if they blatantly violated environmental laws, and if regulators turned a blind eye, the law provided no *Plan B* for enforcement.

The challenges can be illustrated by contrasting scenarios. If Company X discharges toxic waste onto A's farmland, A clearly has locus *standi*: a direct interference with A's property (a private right) gives A the standing to sue for trespass or nuisance. But if Company X dumps the same waste into a public river that flows by A's village, affecting fisheries and the health of residents broadly, who has standing to sue? Under the old doctrine, the harm is to the public (community water rights, public health) rather than a specific legal right of A. Unless A can show a distinct injury (say, that he alone suffered from a poisoning that others did not), A would be told he lacks standing; enforcement would depend on the government initiating a public nuisance action. For decades, Nigerian courts took exactly this position, often with too harsh an effect in environmental cases discussed later.

It is important to note that not all common law jurisdictions have remained as rigid. Over time, many have reformed standing rules (through judicial decisions or statutes) to better accommodate public interest issues. South Africa's Constitution, for example, explicitly allows any person to approach a court acting in the public interest or on behalf of others when seeking to enforce constitutional rights, including the right to a healthy environment.¹⁸ Kenya's Constitution similarly provides that for enforcement of the right to a clean environment, "*an applicant does not have to demonstrate that any person has incurred loss or suffered injury.*"¹⁹ These are conscious departures from the traditional rule, aimed at improving access to environmental justice. Nigeria adhered to a conservative path for many years, as its courts often echoed concerns that allowing broad standing would usurp the Attorney-General's authority and encourage a flood of frivolous claims. The legal culture prioritised preventing abuse of court process over enabling collective grievances to be heard.²⁰

¹⁸ Constitution of the Republic of South Africa 1996, ss 24 and 38.

¹⁹ Constitution of Kenya 2010, art 70(3).

²⁰ See Senator Abraham Adesanya v President of the Federal Republic of Nigeria (1981) 5 SC 112; (1981) 2 NCLR 358; Thomas v Olufosoye (1986) 1 NWLR (Pt 18) 669;

Another aspect of the legal background is the lack (until recently) of an explicit constitutional environmental right in Nigeria. Unlike some countries, Nigeria's Constitution does not enumerate the right to a clean or healthy environment as a fundamental right enforceable by individuals. Because Section 20 of the Constitution is non-justiciable, its mandate for the State to protect the environment is unenforceable by individuals.²¹ Claimants could not directly use a constitutional right to the environment to support their standing in court. However, Nigeria is party to the African Charter on Human and Peoples' Rights,²² which under Article 24 guarantees peoples' right to a generally satisfactory environment. The domestication of the African Charter made it part of Nigerian law, thus creating a potential avenue to argue for environmental rights through its provisions. Indeed, in 2005, in *Jonah Gbemre v. Shell Petroleum Development Company of Nigeria Ltd & Ors*,²³ a Nigerian Federal High Court invoked the African Charter and the constitutional rights to life and dignity to hold that gas flaring in the Niger Delta violated the applicants' fundamental rights. In that case, the plaintiff, Gbemre was a member of the affected community (thus satisfying standing), and the court recognised that the right to life²⁴ implicitly includes the right to a clean, healthy environment. This was a creative judicial move to link environmental harm to fundamental rights, hinting at a more liberal approach. However, such cases were rare and dependent on having directly affected plaintiffs. The general standing barrier remained for broader public interest suits.

Challenges of Locus *Standi* in Nigeria's Environmental Claims

The strict doctrine of *locus standi* in Nigeria has posed significant practical barriers to environmental litigation, manifesting in several ways:

Exclusion of Public Interest Litigants

Owodunni v Registered Trustees of Celestial Church of Christ (2000) 10 NWLR (Pt 675) 315; Elendu v Ekwoaba (1995) 3 NWLR (Pt 386) 704.

²¹Ufuoma Veronica Awhefeada, Patrick Chukwunonso Aloamaka and Ejiro T Kore-Okiti, 'A Realistic Approach Towards Attaining Sustainable Environment Through Improved Public Participation in Nigeria' (2023) 8 International Journal of Professional Business Review 16.

²²(adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217, art 24.

²³(2005) 6 AHRLR 152.

²⁴Constitution of the Federal Republic of Nigeria 1999 (as amended), s 33(1); Ufuoma Veronica Awhefeada, Ugochukwu Godspower Ehirim, Andrew Ejoywo Abuza, 'Nigeria: Sand Dredging in Perspective' (2022) 3 Jus Corpus 352.

A key effect has been the exclusion of NGOs and concerned citizens from initiating environmental suits on behalf of affected communities. Even when environmental laws were clearly breached, courts rejected claims from individuals lacking personal injury.²⁵ Public interest or collective benefit was generally insufficient for standing. As Fagbemi and Akpanke²⁶ note, many environmental statutes only permit enforcement by government agencies, leaving citizens powerless when authorities fail to act.

Diffuse Harm and “Special Damage” Requirement

Environmental harm is often widespread, affecting many similarly. Yet Nigerian courts insist on “special damage” unique to each plaintiff, making collective redress difficult. In cases like oil spills, courts treat each community or individual as having a separate cause of action, preventing unified suits. This fragmented approach often leads to no litigation at all, as collective action becomes procedurally unfeasible. In the case of *Warri North Local Government Area v Mobil Producing Nigeria Unlimited*,²⁷ the Federal High Court dismissed a joint claim by several oil spill-affected communities, ruling that their harms were not identical. Citing differences in the extent of damage, the court ruled there was no common grievance sufficient to support a representative action. The case was struck out for misjoinder and lack of standing, illustrating how rigid application of the “identical interest” rule can derail environmental claims involving varied impacts.

Preventing Enforcement of Environmental Laws

A major challenge is that *locus standi* has hindered enforcement of environmental laws.²⁸ When agencies or corporations violate legal requirements, such as skipping environmental impact assessments or

²⁵ SA Fagbemi and AR Akpanke, ‘Environmental Litigation in Nigeria: The Role of the Judiciary’ (2019) 10 Nnamdi Azikiwe University Journal of International Law and Jurisprudence 26.

²⁶Ibid.

²⁷ Unreported, Federal High Court, Benin Judicial Division, Suit No. FHC/B/CS/53/99, delivered 21 March 2001.

²⁸ CE Ibe and Efiog Okon Akwa, ‘Mechanisms for Access to Environmental Justice in Nigeria: Challenges and Prospect’ (2021) 5 African Journal Of Law And Human Rights 1.

exceeding pollution limits, there is often no one with standing to challenge them unless a private right is directly affected. This challenge was evident in *Oronto Douglas v. Shell Petroleum Development Co.*,²⁹ a leading environmental standing case. Oronto Douglas, an activist, sued to compel oil companies and the government to conduct a mandatory EIA for a gas project. Although he cited both personal and public interest, the Federal High Court dismissed the case for lack of *locus standi*, ruling he had shown no special damage. The court held that asserting a general interest in lawful and sustainable development was insufficient – he needed to demonstrate that his own private right had been affected by the EIA violation. Even his residence in a potentially impacted community was not enough, in the court’s view, to distinguish him from any other member of the public. The case was dismissed without examining the merits of the EIA claim. The *Oronto Douglas* case became emblematic of how Nigeria’s “unreasonably restrictive standing criterion” stifled environmental accountability.³⁰ Omukoro,³¹ note that by refusing standing to an individual seeking to enforce a clear statutory duty (public participation in an EIA), the court prioritised procedural orthodoxy over substantive environmental justice. The Court of Appeal later ordered a retrial on other grounds, but by then the project was completed, rendering the point moot. The case signalled to civil society that, without a unique personal injury, even clear environmental breaches could not be challenged in court.

Collective and Representative Actions Thwarted

Environmental harm often requires collective legal action, yet Nigerian courts imposed strict conditions on representative suits. The requirement that those represented share the “same interest” was enforced stringently. In *Shell Petroleum Development Company of Nigeria v. Chief Otoko & Others*,³² six communities jointly sued for oil spill damages affecting a shared river system. While the trial court awarded compensation, the Court of Appeal overturned the judgement, holding that the communities lacked a “common” interest due to varying degrees of damage. It ruled that each claim was personal and could not be pursued

²⁹ (1999) 2 NWLR (PT 591) 466

³⁰ Dickson Ebikabowei Omukoro, ‘Ensuring Environmental Accountability in Nigeria through the Liberalisation of the Locus Standi Rule: Lessons from Some Selected Jurisdictions’ (2019) 27 African Journal of International and Comparative Law 473.

³¹ Ibid.

³² (1990) 6 NWLR (Pt. 159) 693.

collectively, resulting in the dismissal of the representative action. Similarly, in *Warri North L.G.A. v. Mobil Producing Nigeria*,³³ several communities jointly sued for environmental remediation and loss of fishing livelihoods. The court, on motion, questioned their standing, ruling that varying impacts required separate suits. The case was dismissed. This reflects a broader pattern: courts fragment collective harm into individual claims, raising costs and legal hurdles. For impoverished communities, filing multiple suits was unrealistic, as many gave up, leaving polluters unaccountable. Strict *locus standi* and procedural rules thus effectively blocked unified responses to environmental harm.

Deterrent Effect on Environmental Justice

Judicial hostility to public interest standing created a chilling effect over time. Environmental lawyers and NGOs grew reluctant to litigate, knowing standing was a major barrier. Amechi, Etemire and Ihua-Maduenyi³⁴ noted that decisions like the *Oronto Douglas Case* discouraged NGOs from pursuing public interest environmental suits. Under such conditions, Environmental Public Interest Litigation (PIL) struggled to take root in Nigeria. By contrast, countries like India and Pakistan embraced PIL, leading to robust environmental case law and enforcement. The discouragement of public-spirited litigants in Nigeria meant that enforcement was left to government agencies or directly harmed individuals. For marginalised communities lacking resources, *locus standi* compounded their exclusion as they couldn't access courts or rely on allies. This prompted widespread criticism that environmental justice was effectively denied. As Ike³⁵ observed, Nigeria's rigid *locus standi* rules blocked many environmental litigants from accessing justice, effectively shielding polluters and inactive regulators. This created an accountability gap, as environmental laws existed, but procedural barriers prevented their enforcement by the public.

³³ Suit No. FHC/B/CS/53/99

³⁴ Emeka Polycarp Amechi, Uzuazo Etemire and Agent Ihua-Maduenyi, 'Access to Justice through Environmental Public Interest Litigation' (2021) 54 *Verfassung und Recht in Übersee* 398.

³⁵Ike (n 5)

High Costs and Delays as Adjunct Challenges

Crippling delays often hindered environmental cases in Nigeria, even when standing was established. Complex suits frequently dragged on for over a decade through trial and appeals, making justice slow and costly. For instance, in *Shell Petroleum Development Company of Nigeria Limited v. Chief Joel Amaro & 12 ORS*,³⁶ litigation over oil spill damage lasted 32 years before reaching the Supreme Court. Such delays, coupled with strict standing rules, made environmental justice in Nigeria highly impractical. As a result, many communities turned to foreign courts or regional bodies, which resulted in a trend of “forum shifting” driven by barriers in the domestic legal system.

Comparative Perspective: Standing in Environmental Litigation in the U.S. and India

Comparing Nigeria’s restrictive *locus standi* rules with other jurisdictions reveals workable alternatives. The U.S. maintains constitutional limits on standing but has developed accommodations for environmental plaintiffs. India, through its Public Interest Litigation (PIL) movement, transformed access to courts, especially in environmental and human rights cases. These examples show how other systems balance preventing frivolous claims with enabling justice. Countries like South Africa and Kenya have also broadened standing, which reflects a global shift toward greater judicial access in environmental matters.

United States: Constitutional Standing and Environmental Litigation

U.S. standing doctrine, based on Article III of the Constitution, requires plaintiffs to show (1) injury in fact, (2) causation, and (3) redressability. Essentially, a concrete harm linked to the defendant’s action that the court can remedy.³⁷ Though strict and similar in spirit to Nigeria’s traditional approach, U.S. courts have gradually recognised various environmental harms including non-economic and non-physical injuries as sufficient to establish standing. Notably, the U.S. Supreme Court in

³⁶ (2015) CLR 6(h) (SC).

³⁷ Edward A Hartnett, ‘The Standing of the United States: How Criminal Prosecutions Show That Standing Doctrine Is Looking for Answers in All the Wrong Places’ (2019) 97 Michigan Law Review 2239.

*Sierra Club v. Morton*³⁸ held that an organisation lacked standing to protect a forest based solely on ideological interest; it needed a member personally affected. This case established that legitimate injuries for standing include aesthetic and recreational harms, such as the loss of enjoyment of natural resources.³⁹ By the 1990s, U.S. courts recognised ‘associational standing,’ allowing environmental groups to sue if at least one member had standing.⁴⁰ For example, a member’s impaired ability to fish or enjoy hiking due to pollution was considered a concrete, personal injury sufficient under Article III.⁴¹

The U.S. courts have also dealt with procedural injuries in environmental law. Many U.S. environmental statutes⁴² provide procedural rights; for instance, the right to have an Environmental Impact Statement prepared before a project proceeds. The question arose: can a plaintiff sue an agency for failing to follow such procedures even if the environmental harm has not yet occurred or will affect many people? U.S. courts answered yes, albeit with nuances. In *Friends of the Earth, Inc. v. Laidlaw Environmental Services, Inc.*,⁴³ the Supreme Court underscored that the relevant injury can be the decreased recreational or aesthetic value of a river due to pollution, enabling an environmental group to seek civil penalties against a polluter. Earlier, in cases like *Lujan v. Defenders of Wildlife*,⁴⁴ the Supreme Court had rejected standing for citizens challenging government inaction on endangered species abroad, drawing a line against purely general interest in compliance with law. Subsequent lower court cases, however, showed a willingness to grant standing when plaintiffs alleged that procedural lapses (e.g., not performing an EIA) risked harming their concrete interests. For instance, in *Friends of the Earth Inc. & Ors. v. Watson Peter & Philip Merill*,⁴⁵ environmental organisations and cities sued U.S. agencies for funding overseas projects that contributed to climate change without NEPA review. The court held the plaintiffs had standing, articulating that to

³⁸ 405 U.S. 727 (1972).

³⁹ Scott W Stern, ‘Standing for Everyone: Sierra Club v. Morton, Supreme Court Deliberations, and a Solution to the Problem of Environmental Standing’ (2018) 30 Fordham Environmental Law Review 21.

⁴⁰ Matthew Hall and Christian Turner, ‘The Nature of Standing’ (2020) 29 William & Mary Bill of Rights Journal 67.

⁴¹ Ibid.

⁴² Like the National Environmental Policy Act, NEPA

⁴³ (98-822) 528 US 167 (2000) 149 F.3d 303.

⁴⁴ 504 U.S. 555 (1992).

⁴⁵ 2005 WL 2035596, 35 Environmental Law Report, 20. P. 179 or U.S. Court of Appeals for the Ninth Circuit - 518 F.2d 323 (9th Cir. 1975).

show injury in a procedural environmental case, one need not prove imminent environmental harm, only that it is reasonably probable the defendant's action threatens the plaintiff's concrete interests. The plaintiffs had presented evidence that increased greenhouse gas emissions could worsen global warming and ultimately affect areas used by their members – this sufficed as a concrete interest at stake.⁴⁶ The court took a far more liberal view compared to Nigeria's approach at that time, focusing on the probability of harm to a class of persons (even if in different ways) and the contribution of the defendant's action to that harm.

Another illustrative U.S. case is *Centre for Biological Diversity, Blue Water Network and Sierra Club v. Spencer Abraham*,⁴⁷ where NGOs challenged government agencies' failure to implement an energy policy related to climate change. The court assessed a range of alleged injuries: health concerns from smog, anxiety over global warming, traffic issues, and aesthetic harms. It dismissed some as too abstract or not redressable (e.g., general global warming fears or "traffic problems" without a clear link to the relief sought). However, it accepted that aesthetic injuries and health risks from pollution were sufficient to confer standing. This demonstrates how U.S. courts parse standing: they weed out the truly generalised grievances⁴⁸ but will credit concrete, particularised impacts.⁴⁹ Also important, the court reaffirmed associational standing – an environmental organisation can sue on behalf of its members if those members have standing in their own right and the issue relates to the organisation's purpose. This principle enabled NGOs to be effective litigants: they simply need to include affidavits from affected members.

U.S. environmental law includes "citizen suits" in its statutes,⁵⁰ authorise any citizen to sue for enforcement. However, the Supreme Court has clarified that even in citizen suits, the constitutional minimum of injury-in-fact must be met – Congress cannot eliminate Article III's requirements.⁵¹ So citizen suit provisions mostly serve to eliminate prudential standing barriers and give explicit cause of action, but plaintiffs still need to show a concrete stake. In practice, U.S. environmental groups have adapted strategies to ensure standing:

⁴⁶Ibid.

⁴⁷ 218 F.Supp.2d 1143 (N.D.Cal. Jul 30, 2002) (NO. 3:02CV00027).

⁴⁸Like a mere ideological displeasure with climate change.

⁴⁹Like I breathe polluted air near my home.

⁵⁰ Clean Air Act Amendments of 1970, Clean Water Acts, etc.

⁵¹ Evan Tsen Lee and Josephine Mason Ellis, 'The Standing Doctrine's Dirty Little Secret' (2015) 107 Northwestern University Law Review 169.

monitoring pollution in specific locales, having members who live, work, or recreate in affected areas, etc.⁵² Consequently, many environmental cases, including large-scale issues like climate change, are heard on their merits in the U.S. For example, in *Massachusetts v. EPA*⁵³ the Supreme Court found that Massachusetts had standing to challenge the EPA's failure to regulate greenhouse gases, partly because as a state it faced tangible risks (coastal erosion from sea-level rise) and was given "special solicitude" in standing analysis. While ordinary citizens might not have had standing in that scenario, the involvement of a state and a procedural right (a petition for rulemaking) allowed the case to proceed.

India: Public Interest Litigation and Expansive Standing

India radically transformed *locus standi* through Public Interest Litigation (PIL) in the 1970s and 1980s.⁵⁴ The Supreme Court allowed any public-spirited individual or group to file petitions on behalf of others, even through letters, which was a departure from traditional standing rules.⁵⁵ This approach aimed to ensure access to justice for the poor and marginalised. Environmental protection became a key focus, as courts recognised that the voiceless environment and vulnerable communities needed representation. Relaxed standing thus empowered civic actors to enforce rights on behalf of those unable to do so themselves.

In the 1980s, the Supreme Court of India entertained letters and petitions regarding environmental degradation, e.g., the *Dehradun Quarrying Case*,⁵⁶ where the court treated a letter about illegal mining in the Himalayas as a writ petition and ultimately ordered a halt to destructive mining, citing Article 21 (right to life) as encompassing environmental protection. No individual "standing" was questioned – the cause itself was enough.

The case of *Vellore Citizens' Welfare Forum v. Union of India*⁵⁷ is a prominent example of an NGO standing in an environmental PIL. An

⁵² Jonathan Awewomom and others, 'Addressing Global Environmental Pollution Using Environmental Control Techniques: A Focus on Environmental Policy and Preventive Environmental Management' (2024) 2 Discover Environment 8.

⁵³ 549 U.S. 497 (2007).

⁵⁴ Pritam Ghosh, 'Judicial Activism and Public Interest Litigation in India' (2013) 1 Galgotias Journal of Legal Studies 77.

⁵⁵ *Ibid.*

⁵⁶ *Rural Litigation and Entitlement Kendra v. State of U.P.* 1985 AIR 652, 1985 SCR (3) 169.

⁵⁷ AIR 1996 SC 2715.

NGO filed a petition concerning pollution from tanneries in the state of Tamil Nadu, which was contaminating groundwater and rivers with toxic effluents. The Supreme Court granted an NGO standing to challenge tannery pollution in Tamil Nadu. Recognising the NGO as acting in the public interest, the Court held the polluters liable and affirmed the principle of sustainable development. Without requiring proof of personal harm, the Court found the clear threat to community health and water quality sufficient to justify intervention.

Indian courts explicitly linked environmental quality to the fundamental right to life under Article 21 of the Constitution. In *Subhash Kumar v. State of Bihar and Ors*,⁵⁸ the Supreme Court stated unequivocally that the right to life is fundamental and it includes the right of enjoyment of pollution-free water and air for full enjoyment of life. This provided a direct constitutional hook for environmental claims. Thus, any citizen could file a writ alleging that pollution or environmental degradation was violating the right to life of the public. The courts considered such letters or petitions even from unaffected individuals, reasoning that genuine, community-affecting matters deserved judicial redress in the public interest.

The Supreme Court of India also tackled urban environmental issues through PIL. In *M.C. Mehta v. Union of India*,⁵⁹ the Supreme Court addressed major urban environmental issues through multiple PILs, from Ganges pollution to Delhi's air quality and damage to the Taj Mahal. The Court granted Mehta standing in each case and actively supervised remedies, including ordering all Delhi commercial vehicles to switch to CNG and relocating polluting industries. These outcomes were possible because the Court waived strict standing requirements, recognising the public interest nature of environmental harm. Indian courts thus embraced a more accessible, justice-oriented role, encouraging public-spirited litigation for the environment.

The Indian Supreme Court also did not shy away from calling out the duty of the state and even expanding on environmental rights. In *Indian Council for Enviro-Legal Action v. Union of India*,⁶⁰ the Supreme Court held that pollution from hazardous industries violated the constitutional right to a wholesome environment and, by extension, the right to life. Emphasising justice over procedure, the Court embraced a problem-solving role, citing Lord Denning's view that legal rules should not

⁵⁸ 1991 AIR 420.

⁵⁹ 1987 SCR (1) 819.

⁶⁰ (1) S.C.R. 507.

obstruct justice.⁶¹ This philosophy justified relaxing *locus standi*, as the judiciary saw protecting fundamental rights as a constitutional duty overriding technical barriers.

The impact of India's liberal standing approach has been profound. Courts became venues for environmental governance, passing orders to clean up rivers, improve air quality, protect forests, and compensate victims of pollution.⁶² On the flip side, this has raised issues of judicial overreach, with courts encroaching on executive agency roles. But undeniably, India's environment benefitted in many instances from proactive judicial intervention that would not have been possible under a strict standing regime.

Comparatively, Nigeria's prior stance looks very restrictive next to India's. Where Nigerian courts feared allowing "strangers" to sue, Indian courts welcomed anyone bringing a genuine environmental issue as doing a service to the nation. The underlying difference is philosophical: Nigeria clung to a traditional view of the judicial role (arbiter of individual disputes), whereas India embraced an expanded role of the judiciary as a vindicator of constitutional values and a solver of public problems.

It is instructive that India's model influenced other countries. Courts in Pakistan, Bangladesh, and some African countries referenced Indian PIL jurisprudence to broaden standing in their own environmental cases. For example, the Supreme Court of Pakistan in *Shebla Zia v. WAPDA PLD*⁶³ accepted a letter alleging danger from electromagnetic pollution as a PIL and declared the right to a healthy environment part of the right to life, clearly echoing Indian reasoning. In South Asia, PIL became a common mechanism for the environment. Kenya, through constitutional design in 2010, effectively codified something similar: as noted, Article 70 of its Constitution allows any person to seek enforcement of the right to a clean environment without proving personal loss.⁶⁴ South Africa, too, in Section 38 of its Constitution, permits anyone acting in the public interest to approach a court for relief in Bill of Rights matters.⁶⁵ In these jurisdictions, "standing" in environmental cases is largely a non-issue;

⁶¹ Lord Denning, *The Family Story* (Butterworths 1981) 174.

⁶² Gitanjali Nain Gill, 'Environmental Justice in India: The National Green Tribunal and Expert Members' (2016) 5 *Transnational Environmental Law* 175205.

⁶³ 1994 SC 693.

⁶⁴ Constitution of Kenya 2010, art 70.

⁶⁵ Which includes the right to an environment not harmful to health or well-being in Section 24 South African Constitution.

courts focus on the merits if the matter is environmental and significant, not the litigant's identity.

Recent Developments: A Paradigm Shift in Nigeria's Standing Doctrine

Before outlining reform proposals, it is important to highlight the momentous development signalled by the Nigerian Supreme Court in *Centre for Oil Pollution Watch v. NNPC*.⁶⁶ This case, as noted, involved an NGO seeking to hold an oil company accountable for pollution. In a unanimous decision, the Supreme Court overturned the orthodox rule and recognised the standing of the NGO to sue in the public interest. The judgement, delivered by Justice Aka'ahs (with concurrences from other justices), contains language that indicates a fundamental shift in how locus *standi* is understood in environmental matters in Nigeria.

One of the most significant developments is the recognition of public interest standing. The Court affirmed that public-spirited individuals and organisations can sue to compel compliance with environmental laws. It held that personal harm is not necessary if the action is bona fide and aims to enforce laws protecting the environment or public health. This aligns Nigeria with international trends where environmental harm is seen as harm to all, justifying broader access to courts.

Additionally, the Court broadened the concept of a "proper person". It declared that any individual or group acting in good faith to enforce public laws should be granted legal standing. This jettisons the "special damage" requirement in public law cases and shifts the judicial focus from the plaintiff's personal interest to the defendant's duty to comply with the law. The Court also emphasized justice for vulnerable communities, acknowledging that environmental degradation disproportionately affects poor and marginalized populations who often lack the means to litigate. By enabling NGOs and civic actors to act on their behalf, the Court advances environmental justice and democratises access to legal remedies.

In a progressive policy-oriented observation, the judgement acknowledged the realities of climate change and the role of courts in responding to global environmental challenges. It called for an expansive approach to standing due to diffuse and systemic harms like global

⁶⁶ [2019] 5 NWLR (Pt. 1666) 518.

warming, effectively opening the door to future climate-related litigation in Nigeria.⁶⁷

Most notably, the Court “greened” the Nigerian Constitution by interpreting Section 20 (environmental protection under the Directive Principles) as justiciable when read with Section 4(2) and reading the right to a clean and healthy environment into Section 33 (right to life). This constitutional elevation of environmental rights mirrors India’s evolution under Article 21 and reinforces Nigeria’s obligations under Article 24 of the African Charter, which is part of domestic law.

Finally, by aligning with *Gbemre v. Shell*, the Supreme Court endorsed the approach of treating environmental protection as a constitutional human right. The *COPW* case thus represents a foundational moment in Nigerian environmental law, shifting courts from technical dismissals to substantive rights-based adjudication.

However, the implementation of this new doctrine is now the critical question. Will lower courts and future panels of the Supreme Court uniformly apply this expanded standing principle? The decision could be termed a “stealth relaxation” because it wasn’t preceded by legislative change; it was a judicial recalibration that might not yet be widely internalised by all judges or practitioners.⁶⁸ Some caution that while the Supreme Court has opened the door, there might be hesitancy or inconsistency at lower levels until the principle is firmly entrenched.⁶⁹ Therefore, as we consider reform proposals, a key aspect will be consolidating this gain, ensuring it becomes the new normal in Nigerian environmental jurisprudence, not an outlier.

Recommendations

The Supreme Court’s landmark decision in *Centre for Oil Pollution Watch v. NNPC* marked a major shift in Nigeria’s environmental standing doctrine. However, to sustain this progress, further reforms are needed to institutionalise liberal standing, enhance public access to justice, and empower civil society in environmental enforcement. Below are six key proposals:

⁶⁷ Patrick Chukwunonso Aloamaka, 'Navigating the Climate Crisis: Exploring International Law's Evolution and Application' (2024) 6 GLS Law Journal 48-58.

⁶⁸ Ibrahim Obadina, 'Nigerian Supreme Court's Stealth Relaxation of Locus Standi in Environmental Litigation: Redirecting Judicial Approach to Public Interest Litigation' (2021) 2 Journal of Private and Business Law 200.

⁶⁹ Ibid.

Codify Broad Standing in Environmental Laws

To entrench the Supreme Court's liberal approach, Nigeria should amend laws like the EIA Act or enact a new Environmental Management Act granting standing to "any person or organisation" to challenge environmental harm. This would eliminate the personal injury requirement, following models like Kenya and South Africa, and ensure clarity and consistency across courts.

Revise Civil Procedure Rules to Recognise Public Interest Litigation (PIL)

Civil procedure rules should be updated to support representative suits and environmental PILs. NGOs and advocacy-minded individuals should be recognised as eligible litigants, and suits should be permitted in the name of affected communities or the environment. Safeguards like cost penalties can help deter frivolous claims.

Institutionalise Judicial Training on Environmental Justice

Judges need targeted training on broad standing, the link between environmental harm and fundamental rights, and comparative case law. Workshops and bench books can help shift focus from procedural formalism to substantive justice, ensuring lower courts align with the Supreme Court's precedent.

Establish Environmental Courts or Tribunals

Nigeria should set up environmental courts or tribunals with jurisdiction over climate, pollution, and resource disputes. Modelled after India's National Green Tribunal, these bodies should adopt flexible standing rules and expert panels to enable faster, more informed resolution of environmental cases.

Leverage Existing Human Rights Frameworks

Lawyers can use existing tools like the Fundamental Rights (Enforcement Procedure) Rules while awaiting legislative reform. The Supreme Court in *COPW* affirmed the right to a healthy environment under Section 33 and Article 24 of the African Charter. Framing

environmental harm as a rights violation helps bypass strict standing barriers.

Promote Community Legal Empowerment

Grassroots legal awareness is vital. NGOs and legal aid groups should educate communities, especially in pollution-affected areas on their rights under *COPW*. Environmental law clinics and pro bono networks can help turn expanded standing into real access to justice.

Conclusion

The doctrine of *locus standi* has long restricted environmental justice in Nigeria by excluding NGOs and communities from court access. The 2019 Supreme Court decision in *Centre for Oil Pollution Watch v. NNPC* marked a turning point, affirming public interest standing and aligning with global trends that recognise collective rights and environmental protection as fundamental. However, this progress must be consolidated through legislative reforms, revised civil procedure rules, judicial training, and grassroots legal empowerment. By institutionalising a liberal standing regime, Nigeria can remove procedural barriers, ensure accountability, and promote inclusive, rights-based environmental governance as an essential step toward sustainable development and justice.

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