



# Examining Environmental Degradation as Exception to the Doctrine of Locus Standi

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## Abstract

This article explores the application of locus standi in environmental cases, focusing on the challenges of enforcing environmental rights in Nigeria. Environmental degradation, caused by anthropogenic pollution, overwhelms ecosystems when pollutants exceed their capacity to self-sustain. Historically, locus standi restricted legal action unless direct harm could be proven. The study addresses this limitation, highlighting the 2019 Supreme Court ruling in *Centre for Oil Pollution Watch v. NNPC*, which removed this barrier in environmental cases. Through legal analysis, it demonstrates the significance of the ruling for environmental law and recommends that the National Assembly enshrine this precedent in national legislation, facilitating better protection of environmental rights.

## Keywords

Environment, Degradation, Locus, Standi, Doctrine.

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## Introduction

Locus-standi is the ability of a party to maintain that party's interest in the case by providing the court with sufficient evidence of a harm originating from a statute or action that is being questioned. The underlying principle of it is that no court should grant relief for a matter in which the petitioner has neither a remote interest nor any interest at all (section 6(6)(b), Nigeria Constitution, 1999). He needs to show that he is interested in the case and be able to provide evidence that the defendant's actions hurt him or his person. To establish locus standi, the plaintiff must show that he has either already experienced direct harm from the defendant or is immediately

in danger of experiencing such harm, relative to all other parties who might have been affected by the defendant's actions. The legal ability of an individual to initiate legal proceedings in a court of law or tribunal is known as *locus standi*, and it was used in the *Adesanya v President of Nigeria* case (1981), according to *Fatayi Williams JSC*.

Legal analysis of the aforementioned term reveals two aspects of the concept. First, in order to have standing to contest the validity of the action, the party requesting relief must show that he has been adversely affected by it. This is disputed in order to justify his use of the court's power to query its validity. Secondly, the action may be challenged on certain grounds, such as the claim that it violates the rights of the person seeking redress. In *Owodunmi v Registered Trustees of Celestial Church & ors*, the Supreme Court decided that the Constitution's subsection 6(6)(b) specifies the extent of the courts' judicial powers, not the *locus standi* of a party requesting the court's jurisdiction and powers. *Kabiri-Whyte, JSC*, contends in *Adediran v Interland Transport Ltd.* that constitutional principles are irreconcilable with the common law distinction between private and public nuisances respecting the right of action in public nuisances. It is contended that this provision gives a litigant the legal right to sue people who break the law, especially when it comes to environmental issues, even if he has not been directly harmed by an environmental violation but thinks the issue at hand could have a negative effect on the environment as a whole.

### **Theoretical Framework**

The law should adapt to the society it is meant to regulate if it is worth the ink used to write it. Theoretically, laws are dynamic and change over time to produce communities where they are neither archaic nor obsolete. It is expected that all organs of government, including the legislature and the judiciary, will take the initiative to recommend courses of action that would advance society's advancement when societal trends take on shapes not intended by the law. This is important because the major topic of debate is how to make a necessary exception in a society that is evolving and where legal principles seem to be the gears that move the wheels of substantive justice for the rightful parties.

For law to be properly referred to as such, it must be dynamic. In the *Center for Oil Pollution Watch v NNPC* (2019) case, the Nigerian Supreme Court recently given this legislative element momentum. In keeping with its duty to expand the applicability of the law, the Supreme Court eliminated the prior limitation on the idea of *locus standi* in the aforementioned instance. The Nigerian Supreme Court has frequently ruled that litigants must have the required interest and fulfill several standards before they may launch a lawsuit, even before the pollution watch case. Prior to filing the aforementioned case, the plaintiff needs to prove that the other party's actions or inactions caused him harm and that he has a right or legal interest that needs to be safeguarded. The *locus standi* argument holds that a plaintiff who lacks a valid legal basis is nothing more than an intruder and a bothersome person who is not worthy of the courts' time. However, there seems to be a change in how environmental rights are enforced. On behalf of the people who were injured, the courts now let a third party who was not affected by the defendant's deeds or inactions to submit a complaint and pursue legal action.

## Methods

This article employs the doctrinal technique, which involves examining case laws and texts to verify the accuracy of the claim that environmental degradation has deviated from the sacred principles of locus standi.

### Conceptualizing Locus Standi

The term locus standi refers to the legal standing to sue for alleged infringement of rights, duties, or interests. Locus standi translates to "place of standing" in Latin. Someone has the legal right to sue in a court of law when their rights are infringed by another individual or organization. In formal legal parlance, this is called locus standi. The idea behind the case is that the plaintiff, in order to successfully sue another, must show that the activity in question has directly affected him. The reason behind its development was to stop professional litigants or obtrusive, disinterested parties from converting the court into a free lunch. A plaintiff must first establish that the behavior in question truly harmed them in order to establish locus standi, and then they must demonstrate that the interest they are defending is within the scope of interests that the applicable statute or constitutional provision is meant to protect.

## Results and Discussions

### Environmental degradation an exception to the Doctrine of Locus Standi

In the *Centre for Oil Pollution Watch v. NNPC* case, the Appellant was enforcing its mandate when it sued the Respondent in the Federal High Court of Lagos for allegedly failing to maintain its pipelines in the Acha Autonomous Community in the Isukwuato Local Government Area, Abia State. This resulted in an oil spill in the community and, among other things, limited the residents' access to portable water from the Ineh and Aku Streams/Rivers, the community's only source. The Respondent (as Defendant in the trial court) argued in its defense that the Appellant lacked standing to sue it, the Respondent, and included a locus standi argument. Despite its negligent pipeline maintenance, the Respondent argued that the Appellant could not sue it because it was not a community member affected by the oil leak and had not shown any losses from the accident. The respondent's arguments were upheld by the trial court and the appellate court, who dismissed the complaint and appeal respectively, mainly on the grounds that the appellant had not proven it had suffered harm as a result of the respondent's alleged negligence.

To assist it in making a determination regarding the appellant's locus standi, the Supreme Court called upon a few distinguished lawyers who are well-known in the legal community as amici curiae, which is Latin for friends of the court. A intriguing development occurred when the amici curiae, consisting of Aiwaju Adegboyega Awomolo, SAN, Lucious Nwosu, SAN, and A. B. Mahmoud, SAN, as well as the appellant's attorney, Prof. Joseph Mbadugha, concurred that the appellant had the locus standi to sue because it had proven the necessary interest. They said that

everybody with good and selfless motives should be allowed to contact the court over matters of public interest such as the one in this instance. They begged the Court to relax the rigorous application of locus standi in environmental disputes and to enlarge its definition.

Learned Counsel represented the respondent, Victor Ogude Esq. Usurping the right of the affected citizens to file a complaint, Chief Wole Olanipekun, SAN, and Dayo Apata, the Attorney General of the Federation and Minister of Justice, as amici curiae whose opinions agreed with his, tried to persuade the court that the appellant is just a bothersome person or troublemaker (with an abstract corporate soul). They also argued that offices and agencies such as the Attorney General's office, which was established by multiple State and Federal Laws to protect the environment on behalf of the public, would be effectively usurped by broadening the definition of locus standi to include an NGO like the appellant in cases involving environmental degradation. In response to the appellant's complaint, they provided a number of legislative references. It was also contended that allowing the appellant to file a lawsuit would lead to an excessive number of frivolous cases, overwhelming the court's schedule.

The Supreme Court delivered its decision and lived up to its expectations by holding that the Appellant has the right to institute the action, thus expanding the scope of locus standi on environmental matters in Nigeria, after reviewing numerous foreign rulings from common wealth jurisdictions on the subject. The Court further declared that nothing in the Constitution suggests that the Attorney General is the only authorized party with the power to file lawsuits in the public interest, such as the one underway, or to enforce the performance of a public duty. Respectfully, it is appropriate to note that the amici curiae's arguments and the efforts of the attorneys on both sides deserve praise. Do proponents of this position wish to infer that the Appellant, a corporate entity whose objective is to preserve environmental integrity, is incapable of fulfilling the reason it was incorporated? In a country where government entities legally assigned with certain responsibilities rarely execute their commitments, should the appellant and all parties involved wait interminably for them to act before taking the appropriate action? Is it really acceptable to deny a valid lawsuit such as this one the chance to be heard on the basis that allowing it to go forward would encourage additional frivolous lawsuits? Is it not lawful for judges to determine which lawsuits are frivolous and which are not, and then to dismiss the former? Has it been considered that someone in a better position had to initiate this action since the residents of the neighborhood where the oil leak happened could not have afforded to file a lawsuit?

The issue of standing to sue affects how social and economic rights, as well as legal doctrine, develop in any given legal system. In a similar vein, it is critical that the government and the general public assume accountability for environmental preservation (Amokaye, 2007). The restrictive application of standing rules, the justiciability of the right to the environment, or policy grounds like the financial implications of correcting proven violations are all more straightforward ways to strike a balance between the public and private interests, even though the court finds them

easier to resolve in cases involving individuals. Nigeria undoubtedly has a plethora of legal tools at its disposal to enforce environmental regulations and penalize noncompliance. These clauses are included in recognized international laws, legislation, and even the constitution(Okorodudu-Fubara, 1998).

However, nowhere in Nigeria has the locus standi issue, which comes up anytime someone tries to sue someone for environmental rights against any respondent—especially foreign oil companies—hampered the success of environmental justice like this. International oil companies consistently flout environmental rules and regulations(Fagbemi, et al. 2019) because the burdensome legal system usually gives them the support of complex legal obligations(Friends of the Earth, 2016). This is unrelated to the significant hold-ups in Nigeria's legal system(Oko, 2005). One of the sources the Supreme Court used in addressing the issues in the case under discussion is the Indian decision of *Maharaj Singh v State* (1976) in which the court argues for the requirement of exercising substantial justice in freeing the rule on locus standi. The locus standi rule was determined to have evolved during a time when private law dominated the legal system and public law had not yet been founded, based on the strength of the *Gupta v President of India and Ors*(1982) Per Bhagwati J. case.

The Justice of the Supreme Court goes on to say that even in the absence of statutory legislation, Indian courts see the need to provide justice for the public with regard to environmental degradation because everyone in the country is accountable for maintaining a clean environment, as determined in *Maharaj Singh v State U.P.*(1976) As a result, the Supreme Court notes that we should emulate India, where the judiciary applies legal interpretation. It is significant to remember that, prior to the current case, Nigerian courts used and interpreted locus standi differently. There are some precedents that uphold the locus standi standards. For instance, it was decided in *Badejo v Minister of Education*,(1996) that a party cannot be granted an audience if, in comparison to other parties, they do not exhibit a distinct and substantial interest in the topic at hand. For example, the court held in *A.G. Kaduna State v Hassan* (1985) that a remedy need not be granted for a claim in which the petitioner has no interest—rather, only a remote or hypothetical one.

In contrast, the Supreme Court maintains that the limitation on locus standi should be lifted in other cases, such as *Fawehinmi v Akilu and Anor*,(1987) and that the emerging global tendency is to stand by those who aspire to be their brothers' keepers. These cases either argue that the rule should not be loosened or they warn against doing so. According to the court in *Fawehinmi v FRN*,(2007) enabling any person to file a lawsuit over a public nuisance is the best approach to establish the rule of law in Nigeria. It is suggested that given the regulation's current application to environmental concerns, it can be considered unnecessary in constitutional considerations as it solely obstructs judicial authority. Given the regulation's current applicability to environmental issues in light of the wanton environmental degradation in some regions of the country, it is

suggested that, given that it solely obstructs judicial powers, it can be classified as unnecessary in constitutional grounds. Nigeria is a party to several international human rights agreements, including Article 24 of the African Charter on Human and Peoples Rights (ACHPR) and decisions made by international courts defending the right to the environment. Every Nigerian has a right to the environment as a result of these instruments.

## Conclusion

The Supreme Court deserves accolades for its courage in blazing this new path since society desperately needs this kind of judicial innovation. It is crucial to keep in mind that the Supreme Court's decision has only broadened the definition of locus standi in relation to environmental matters. As such, it is imperative that it be applied to all matters of public interest. It is suggested that as legislation develops, the guiding principles should eventually apply to all actions concerning the public interest. Second, the National Assembly should amend the current environmental laws to reflect the top court's decision.

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