



A SUSTAINABILITY ASSESSMENT OF LOCUS STANDI REQUIREMENT IN PUBLIC INTEREST LITIGATION IN NIGERIA: COMPARATIVE LESSONS FROM KENYA, INDIA, THE UNITED KINGDOM AND SOUTH AFRICA

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The doctrine of locus standi has traditionally functioned in Public Interest Litigations as a procedural threshold that determines who may approach a court for the enforcement of legal rights and obligations. While this doctrine was historically developed to prevent frivolous litigation and preserve judicial resources, its restrictive application has increasingly been criticised for obstructing access to justice, particularly in matters involving environmental protection, human rights enforcement, governmental accountability and the protection of collective interests. Public Interest Litigation (PIL) over time is seen as a transformative mechanism through which courts facilitate broader access to justice and promote sustainable development objectives by allowing individuals, groups and civil society organisations to litigate issues affecting the wider public. This article examines the relationship between locus standi, public interest litigation and sustainable development through a comparative analysis of judicial and constitutional developments in India, Kenya, South Africa and the United Kingdom. The study adopts a doctrinal and comparative methodology, relying on constitutional provisions, statutes, judicial decisions and academic literature. It evaluates the extent to which these jurisdictions have liberalised standing requirements in public interest litigations in order to facilitate environmental governance, human rights protection and public accountability, all of which constitute important pillars of sustainable development. The article argues that while India and South Africa have embraced expansive standing doctrines through judicial innovation and constitutional reform, Kenya has entrenched broad public-interest standing through its transformative Constitution of 2010, and the United Kingdom has developed a flexible 'sufficient interest' approach within its judicial review framework. In contrast, Nigeria continues to grapple with restrictive standing doctrines that often impede access to justice and undermine the effective enforcement of constitutional, environmental and socio-economic rights. The article further contends that the continued application of restrictive standing principles in Nigeria constitutes a significant obstacle to the achievement of Sustainable Development Goal 16, which seeks to promote access to justice, accountable institutions and the rule of law. Drawing lessons from the comparative jurisdictions, the article proposes constitutional, legislative and judicial reforms aimed at expanding public-interest standing in Nigeria while maintaining appropriate safeguards against abuse of judicial processes. It concludes that a sustainability-oriented reconceptualisation of locus standi is essential for strengthening democratic governance, environmental protection, constitutional accountability and sustainable development in Nigeria.

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1. INTRODUCTION

Access to justice has emerged as one of the defining pillars of modern constitutional governance and sustainable development.¹ Contemporary legal systems increasingly recognise that the legitimacy of democratic institutions depends not merely upon the existence of legal rights but also upon the practical ability of individuals and groups to enforce those rights through accessible and effective judicial mechanisms.² The global movement for access to justice has therefore transformed courts from institutions concerned primarily with the resolution of private disputes into critical actors in the promotion of accountability, constitutionalism, environmental protection and human rights.³ This development is reflected in the United Nations Sustainable Development Goals (SDGs), particularly Sustainable Development Goal 16, which calls for the promotion of peaceful and inclusive societies, access to justice for all and the establishment of effective, accountable and inclusive institutions at all levels.⁴

Central to the realisation of these objectives is the doctrine of locus standi, otherwise known as standing. Locus standi determines whether a litigant possesses sufficient legal interest to invoke the jurisdiction of a court.⁵ Traditionally, standing rules required a claimant to demonstrate direct personal injury, proprietary loss or a specific legal interest before a court would entertain an action.⁶ Such restrictions were historically justified as safeguards against frivolous litigation and judicial overreach.⁷ The classical common-law approach reflected the view that courts should resolve concrete disputes affecting identifiable legal interests rather than abstract

¹ Mauro Cappelletti and Bryant Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective* (Sijthoff and Noordhoff 1978).

² Stephen Golub, 'Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative' (2003) 41 *Rule of Law Series* 3.

³ Cappelletti and Garth (n 1) 18–25.

⁴ United Nations General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, UNGA Res 70/1 (25 September 2015) Goal 16.

⁵ HWR Wade and CF Forsyth, *Administrative Law* (11th edn, OUP 2014).

⁶ *Adesanya v President of the Federal Republic of Nigeria* (1981) 5 SC 112.

⁷ Wade and Forsyth (n 5) 643.

questions of public concern.⁸ However, the traditional restrictive conception of standing has increasingly been criticised as an impediment to access to justice. Scholars have argued that many contemporary legal challenges, particularly those involving environmental degradation, human rights violations, corruption and governmental misconduct, affect diffuse interests that cannot easily be reduced to individualised injuries.⁹ Consequently, strict standing requirements often prevent courts from addressing matters of significant public importance merely because no individual claimant can establish a sufficient personal stake in the dispute.¹⁰

Some jurisdictions have fundamentally challenged this restrictive understanding of standing. To some scholars, PIL should enable individuals, public-spirited citizens, community groups and civil society organisations to institute legal proceedings aimed at protecting broader societal interests rather than advancing purely private claims.¹¹ They opined that in PIL, courts should recognise this fundamental fact that the enforcement of constitutional rights and public duties should not be dependent solely upon the ability of the litigant to establish personal injury.¹² This development has been particularly significant in jurisdictions confronting systemic poverty, environmental degradation, administrative failures and widespread violations of fundamental rights.¹³ India is widely regarded as the pioneer of modern public-interest litigation. Beginning in the late 1970s and early 1980s, the Supreme Court of India transformed standing doctrine through a series of landmark decisions that relaxed traditional procedural requirements and permitted public-spirited individuals to seek judicial intervention on behalf of disadvantaged groups.¹⁴

In *S P Gupta v Union of India*, the Court held that where legal wrongs affect persons unable to approach the courts themselves, any member of

⁸ *Gouriet v Union of Post Office Workers* [1978] AC 435 (HL).

⁹ Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4 *Third World Legal Studies* 107.

¹⁰ Michael Fordham, *Judicial Review Handbook* (7th edn, Hart Publishing 2020).

¹¹ SP Sathe, *Judicial Activism in India* (OUP 2002).

¹² *S P Gupta v Union of India* AIR (1982) SC 149.

¹³ Baxi (n 9) 110.

¹⁴ Sathe (n 11) 226.

the public acting bona fide may initiate proceedings in the public interest.¹⁵ This judicial innovation subsequently facilitated extensive environmental and human rights litigation, including the celebrated decisions in *M C Mehta v Union of India*, which expanded judicial oversight of environmental governance and industrial pollution.¹⁶ The significance of PIL extends beyond procedural reform. Contemporary scholarship increasingly recognises access to justice as an essential component of sustainable development.¹⁷ Sustainable development is no longer confined to environmental conservation or economic growth; it encompasses broader objectives relating to social inclusion, human rights, accountability and institutional effectiveness.¹⁸

Accordingly, access to justice serves as an important mechanism through which citizens can hold public institutions accountable, challenge environmental harm and ensure compliance with constitutional norms.¹⁹ The relationship between standing and sustainable development is therefore particularly evident in environmental litigation, where environmental harms often affect large communities and future generations rather than specific individuals.²⁰

Traditional standing doctrines are frequently ill-suited to such circumstances because they require proof of personal injury in situations where the injury is collective, diffuse or prospective.²¹ The need for broader standing rules has also become increasingly apparent in the protection of vulnerable and marginalised groups. Many individuals affected by human rights violations lack the financial resources, education or institutional capacity necessary to pursue litigation.²² Public-interest standing therefore serves an important representative function by enabling

¹⁵ *S P Gupta v Union of India* AIR (1982) SC 149.

¹⁶ *M C Mehta v Union of India* AIR (1988) SC 1037.

¹⁷ Marie-Claire Cordonier Segger and Ashfaq Khalfan, *Sustainable Development Law: Principles, Practices and Prospects* (OUP 2004).

¹⁸ *ibid.*

¹⁹ Christina Voigt, *Rule of Law for Nature* (CUP 2013).

²⁰ Rio Declaration on Environment and Development 1992, Principle 10.

²¹ *Fuel Retailers Association of Southern Africa v Director-General Environmental Management* (2007) (6) SA 4 (CC).

²² Baxi (n 9).

civil society organisations and public-interest advocates to act on behalf of affected communities.²³ Such representative litigation has become an important instrument for promoting social justice and strengthening democratic accountability.²⁴

Nigeria presents a compelling case study within this broader global discourse. Despite constitutional commitments to justice, accountability and the rule of law, Nigerian courts have historically adopted a restrictive approach to standing.²⁵ The decision of the Supreme Court in *Adesanya v President of the Federal Republic of Nigeria* remains the locus classicus on standing and established a framework that required claimants to demonstrate personal injury beyond that suffered by the general public.²⁶ Subsequent decisions largely reinforced this restrictive approach, resulting in the dismissal of numerous public-interest actions on procedural grounds without substantive judicial consideration of important constitutional questions.²⁷

Nevertheless, recent developments suggest a gradual movement towards a more liberal conception of standing. The Fundamental Rights (Enforcement Procedure) Rules 2009 expressly encourage public-interest litigation and direct courts to adopt expansive interpretations that facilitate access to justice.²⁸ Likewise, the Supreme Court's decision in *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* marked a significant departure from traditional orthodoxy by recognising the standing of a public-interest organisation to challenge environmental harm affecting local communities.²⁹ These developments indicate an emerging judicial willingness to align Nigerian standing jurisprudence with contemporary constitutional and environmental realities.

²³ Sathe (n 11).

²⁴ *Minister of Health v Treatment Action Campaign* (2002) (5) SA 721 (CC).

²⁵ *Adesanya v President of the Federal Republic of Nigeria* (1981) 5 SC 112.

²⁶ *ibid.*

²⁷ *Thomas v Olufosoye* (1986) 1 NWLR (Pt 18) 669; *Attorney-General of Kaduna State v Hassan* (1985) 2 NWLR (Pt 8) 483.

²⁸ Fundamental Rights (Enforcement Procedure) Rules 2009, Preamble para 3(e).

²⁹ *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* (2019) 5 NWLR (Pt 1666) 518.

Comparative experience demonstrates that broader standing rules need not undermine judicial integrity. South Africa constitutionalised public-interest standing through section 38 of the Constitution, thereby empowering individuals and organisations to litigate in the public interest and on behalf of affected groups. Kenya adopted an equally transformative approach through Articles 22 and 258 of the Constitution of Kenya 2010, which significantly liberalised access to constitutional litigation.³⁰ In the United Kingdom, the traditional rigidity of common-law standing has evolved into a flexible ‘sufficient interest’ standard that facilitates judicial review in matters of public importance.³¹

The experiences of these jurisdictions demonstrate that standing can be reconfigured in a manner that promotes accountability while preserving legitimate concerns regarding abuse of judicial processes. This article argues that restrictive approaches to locus standi undermine access to justice and constitute a significant obstacle to sustainable development in Nigeria. It further contends that the experiences of India, Kenya, South Africa and the United Kingdom demonstrate that broader standing rules can strengthen constitutional accountability, environmental governance and democratic participation without compromising judicial independence. Consequently, the article advocates a sustainability-oriented reconceptualisation of locus standi that recognises public-interest litigation as an indispensable mechanism for advancing constitutionalism, environmental protection and sustainable development.

The article proceeds in six sections. Following this introduction, Section Two examines the conceptual relationship between locus standi, public-interest litigation and sustainable development, with particular emphasis on Sustainable Development Goal 16. Section Three provides a comparative analysis of constitutional and judicial developments relating to standing in India, Kenya, South Africa and the United Kingdom. Section Four evaluates the legal and institutional barriers that continue to impede the development of public-interest standing in Nigeria. Section

³⁰ Constitution of Kenya 2010, arts 22 and 258; Constitution of the Republic of South Africa 1996, s 38.

³¹ *R v Inland Revenue Commissioners, ex p National Federation of Self-Employed and Small Businesses Ltd* [1982] AC 617.

Five proposes constitutional, legislative and judicial reforms aimed at expanding access to justice while maintaining appropriate safeguards against abuse. Section Six concludes by highlighting the implications of standing reform for sustainable development and constitutional governance in Nigeria.

2. LOCUS STANDI, PUBLIC INTEREST LITIGATION AND SUSTAINABLE DEVELOPMENT

The relationship between locus standi, public interest litigation (PIL), and sustainable development has become increasingly significant in contemporary legal scholarship. Traditionally, locus standi was viewed as a procedural doctrine designed to determine whether a litigant possessed sufficient legal interest to invoke the jurisdiction of a court.³² While this restrictive conception served the legitimate objective of preventing frivolous litigation and preserving judicial resources, it has increasingly come under scrutiny for limiting access to justice in matters involving collective rights, environmental protection, constitutional governance, and public accountability.³³

The emergence of sustainable development as a guiding principle of international and domestic governance has fundamentally altered the context within which standing rules are evaluated. Sustainable development demands not only economic growth and environmental protection but also social inclusion, democratic participation, accountability, and access to effective remedies.³⁴ Consequently, legal systems across the world have increasingly recognised that restrictive standing rules may undermine the ability of courts to address systemic injustices and public wrongs that affect broad segments of society rather than identifiable individuals.³⁵ In all jurisdictions, Public Interest

³² Christopher Forsyth, *Judicial Review and the Constitution* (Hart Publishing 2000).

³³ Ben Nwabueze, *Constitutional Democracy in Africa* (Spectrum Books 2003).

³⁴ World Commission on Environment and Development, *Our Common Future* (Oxford University Press 1987).

³⁵ Victor O Ayeni, 'Public Interest Litigation and the Quest for Judicial Activism in Nigeria' (1997) 1 *Nigerian Current Law Review* 65; See also Mauro Cappelletti and Bryant Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective* (Sijthoff and Noordhoff 1978).

Litigation has been used as a vital mechanism through which courts facilitate access to justice by enabling individuals, community groups, non-governmental organisations, and public-spirited citizens to challenge unlawful conduct that adversely affects the public interest.³⁶ The liberalisation of standing requirements has therefore become closely associated with the promotion of sustainable development objectives, particularly in the areas of environmental governance, human rights protection, anti-corruption initiatives, and constitutional accountability.³⁷

2.1 Sustainable Development and Access to Justice

The concept of sustainable development attained international prominence through the Report of the World Commission on Environment and Development, commonly known as the Brundtland Report, which defined sustainable development as development that meets the needs of the present without compromising the ability of future generations to meet their own needs.³⁸ Since then, sustainable development has evolved into a multidimensional concept encompassing environmental sustainability, economic development, social justice, good governance, and institutional accountability.³⁹ The adoption of the United Nations Sustainable Development Goals (SDGs) in 2015 further reinforced the centrality of access to justice in the sustainable development discourse.⁴⁰ Of particular significance is Sustainable Development Goal 16, which seeks to promote peaceful and inclusive societies, provide access to justice for all, and build effective, accountable and inclusive institutions at all levels.⁴¹ SDG 16 recognises that sustainable development cannot be achieved where individuals and communities lack effective legal

³⁶ Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4 *Third World Legal Studies* 107.

³⁷ Ayeni (n 4).

³⁸ World Commission on Environment and Development, *Our Common Future* (Oxford University Press 1987).

³⁹ Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony and Intergenerational Equity* (United Nations University 1989).

⁴⁰ United Nations General Assembly, Transforming Our World: The 2030 Agenda for Sustainable Development, UNGA Res 70/1 (25 September 2015).

⁴¹ United Nations Development Programme (UNDP), Sustainable Development Goal 16: Peace, Justice and Strong Institutions (2015).

mechanisms through which they can challenge unlawful conduct, enforce rights, and hold public authorities accountable.⁴²

Access to justice therefore occupies a strategic position within the sustainable development framework. It serves as the institutional bridge between legal rights and practical enforcement. Rights that cannot be enforced through effective legal processes remain largely theoretical.⁴³ Consequently, procedural doctrines such as locus standi play a critical role in determining whether access to justice is facilitated or obstructed.⁴⁴ Restrictive standing requirements may prevent courts from addressing environmental degradation, corruption, abuse of governmental powers, violations of socio-economic rights, and other matters that directly impact sustainable development.⁴⁵ Conversely, liberal standing regimes expand opportunities for public participation in governance and strengthen the ability of courts to serve as guardians of constitutionalism and accountability.⁴⁶

2.2 Public Interest Litigation as an Instrument of Sustainable Development

Public Interest Litigation has emerged as one of the most important procedural innovations for advancing sustainable development. Unlike traditional litigation, which is primarily concerned with resolving disputes between private parties, PIL focuses on issues that affect the wider public interest.⁴⁷ The philosophy underlying PIL is rooted in the recognition that many public wrongs affect communities collectively and may not produce a sufficiently direct or personal injury to satisfy traditional standing requirements. Environmental pollution, unconstitutional public expenditure, corruption, discrimination, and systemic violations of human

⁴² Brian Z Tamanaha, *On the Rule of Law* (Cambridge University Press 2004).

⁴³ Cappelletti and Garth (n 4).

⁴⁴ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (adopted 25 June 1998, entered into force 30 October 2001) 2161 UNTS 447.

⁴⁵ Brian Z Tamanaha, *On the Rule of Law* (Cambridge University Press Ltd 2004).

⁴⁶ Nwabueze (n 2) 268.

⁴⁷ SP Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (2nd edn, Oxford University Press 2003).

rights often affect large groups of people who may lack the resources, knowledge, or capacity to seek judicial remedies individually.⁴⁸

The modern development of PIL is often traced to India, where the Supreme Court relaxed traditional standing rules to enable public-spirited individuals and organisations to seek judicial redress on behalf of disadvantaged groups. In *S P Gupta v Union of India*, the Court recognised a liberal approach to standing in matters affecting public rights and constitutional governance.⁴⁹ Similar decision was reached in *People's, of vulnerable populations*.⁵⁰

PIL therefore performs many important functions in advancing sustainable development. First, it enhances governmental accountability by enabling citizens and civil society organisations to challenge unlawful governmental actions and omissions. Through PIL, courts can review executive and administrative decisions that threaten environmental sustainability, constitutional governance, or public welfare.⁵¹ Second, PIL promotes social inclusion by providing a voice for vulnerable and marginalised groups who may otherwise be excluded from legal processes. Women, children, persons with disabilities, indigenous communities, and economically disadvantaged populations frequently benefit from representative litigation initiated by public-interest advocates and civil society organisations.⁵²

Third, PIL contributes to the enforcement of constitutional rights and the rule of law. By facilitating judicial oversight of governmental conduct, PIL strengthens democratic governance and ensures that public institutions remain accountable to constitutional norms.⁵³ Finally, PIL supports sustainable development by encouraging citizen participation in decision-making processes and promoting transparency in governance. Effective

⁴⁸ Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company 1980).

⁴⁹ *S P Gupta v Union of India* AIR (1982) SC 149.

⁵⁰ *People's Union for Democratic Rights v Union of India* AIR (1982) SC 1473.

⁵¹ V R Krishna Iyer, *Law and the People* (People's Publishing House 1972).

⁵² Chidi Anselm Odinkalu, 'Why More Africans Do Not Use Human Rights Language' (2003) 2 *African Human Rights Law Journal* 59.

⁵³ Sathe (n 16) 181.

public participation is widely recognised as a cornerstone of sustainable development and environmental governance.⁵⁴

3. COMPARATIVE ANALYSIS OF EMERGING APPROACHES TO LOCUS STANDI AND THEIR IMPLICATIONS FOR SUSTAINABLE DEVELOPMENT

The evolution of locus standi in contemporary constitutional democracies reflects a broader shift from procedural formalism towards substantive justice. Traditionally, standing rules were designed to ensure that only persons with a direct and personal interest in litigation could invoke judicial intervention. However, increasing recognition of collective rights, environmental concerns, public accountability, and socio-economic justice has compelled courts and legislatures to adopt more liberal approaches to standing.⁵⁵ This section examines the experiences of India, the United Kingdom, Kenya, and South Africa, all of which have progressively expanded access to courts through judicial innovation, statutory reform, or constitutional intervention. While these jurisdictions differ in their legal traditions and constitutional structures, they share a common commitment to enhancing access to justice and strengthening judicial oversight of public power.⁵⁶

The comparative analysis demonstrates that liberal standing regimes have become important instruments for promoting sustainable development by facilitating environmental protection, safeguarding human rights, enhancing democratic accountability, and strengthening the rule of law.⁵⁷

3.1 The United Kingdom: The Evolution of the ‘Sufficient Interest’ Test

The United Kingdom occupies a unique position in any discussion of locus standi because many Commonwealth jurisdictions, including

⁵⁴ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) (adopted 25 June 1998, entered into force 30 October 2001) 2161 UNTS 447.

⁵⁵ Mauro Cappelletti and Bryant Garth, *Access to Justice: A World Survey* (Martinus Nijhoff 1978).

⁵⁶ Joseph Raz, *The Authority of Law: Essays on Law and Morality* (2nd edn, OUP 2009).

⁵⁷ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* (UNGA Res 70/1, 2015) paras 35–39.

Nigeria, inherited their traditional standing doctrines from English law. Historically, English courts adopted a restrictive approach requiring litigants to demonstrate a direct and personal interest in the subject matter of litigation.⁵⁸ Over time, however, the rigid common-law model evolved into a more flexible approach centred on the concept of “sufficient interest.” This development was codified under the judicial review framework and subsequently elaborated through judicial decisions.⁵⁹

The landmark decision in *R v Inland Revenue Commissioners, ex parte National Federation of Self-Employed and Small Businesses Ltd* established that standing should be assessed in light of the public importance of the issues raised rather than through narrow technical requirements.⁶⁰ Subsequent decisions expanded opportunities for public-interest litigation by recognising the standing of pressure groups, charities, environmental organisations, and advocacy groups.⁶¹ Cases such as *R v Secretary of State for Foreign Affairs, ex parte World Development Movement Ltd* illustrate the willingness of courts to grant standing where important issues of public accountability are involved.⁶²

Sustainable Development Implications

The British approach has significantly strengthened governmental accountability and administrative legality. By adopting a flexible “sufficient interest” standard, the courts have enabled public-interest organisations to challenge unlawful governmental actions even where no direct personal injury can be demonstrated.⁶³ This approach has been particularly significant in environmental governance. Environmental organisations have increasingly utilised judicial review to challenge

⁵⁸ HWR Wade and CF Forsyth, *Administrative Law* (12th edn, OUP 2024).

⁵⁹ Senior Courts Act 1981, s 31.

⁶⁰ *R v Inland Revenue Commissioners, ex p National Federation of Self-Employed and Small Businesses Ltd* [1982] AC 617 (HL).

⁶¹ Paul Craig, *Administrative Law* (10th edn, Sweet & Maxwell 2021); *R v Secretary of State for Foreign Affairs, ex p World Development Movement Ltd* [1995] 1 WLR 386.

⁶² *R v Secretary of State for Foreign Affairs, ex p World Development Movement Ltd* [1995] 1 WLR 386.

⁶³ Mark Elliott and Robert Thomas, *Public Law* (4th edn, OUP 2023).

governmental decisions affecting biodiversity, climate change policy, pollution control, and conservation initiatives.⁶⁴

The United Kingdom's experience demonstrates that liberal standing rules can coexist with judicial restraint. Rather than opening the floodgates to frivolous litigation, the sufficient-interest test allows courts to evaluate standing in a context-sensitive manner while preserving access to justice.⁶⁵ Importantly, the evolution of English law undermines the argument that restrictive standing is an indispensable feature of the common-law tradition. The very jurisdiction from which Nigeria inherited its standing doctrine has itself embraced a more flexible and purposive approach.⁶⁶

3.2 India: Judicial Innovation and the Rise of Public Interest Litigation

India represents one of the most influential examples of judicial liberalisation of locus standi in the modern era. Prior to the late 1970s, Indian courts generally adhered to the traditional common-law approach requiring litigants to demonstrate a direct personal interest in the subject matter of litigation.⁶⁷ The transformation began through the judicial activism of the Supreme Court of India under the leadership of judges such as Justice P.N. Bhagwati and Justice V.R. Krishna Iyer. Through landmark decisions such as *SP Gupta v Union of India*, *People's Union for Democratic Rights v Union of India*, and *Bandhua Mukti Morcha v Union of India*, the Court recognised that strict standing requirements often excluded vulnerable populations from accessing justice.⁶⁸

The Court consequently developed the concept of Public Interest Litigation, allowing public-spirited individuals, journalists, lawyers, academics, and civil society organisations to institute actions on behalf of disadvantaged groups unable to approach the courts themselves. The

⁶⁴ Richard Macrory, *Regulation, Enforcement and Governance in Environmental Law* (Hart Publishing 2014).

⁶⁵ Mark Elliott and Robert Thomas, *Public Law* (4th edn, OUP 2023).

⁶⁶ Christopher Forsyth, 'Of Fig Leaves and Fairy Tales: The Ultra Vires Doctrine, the Sovereignty of Parliament and Judicial Review' (1996) 55 Cambridge Law Journal 122.

⁶⁷ MP Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018).

⁶⁸ *SP Gupta v Union of India* AIR (1982) SC 149; *Bandhua Mukti Morcha v Union of India* AIR (1984) SC 802.

judiciary further relaxed procedural requirements by recognising epistolary jurisdiction, permitting letters and informal communications to be treated as writ petitions in appropriate cases.⁶⁹

Sustainable Development Implications

India's liberal standing regime has significantly contributed to sustainable development. Public Interest Litigation has been instrumental in advancing environmental protection through landmark decisions involving pollution control, forest conservation, industrial regulation, and environmental impact assessment.⁷⁰ The Indian judiciary has interpreted the constitutional right to life under Article 21 expansively to include the right to a healthy environment, clean water, and ecological balance.⁷¹ Through PIL, courts have compelled governmental authorities to enforce environmental regulations and protect natural resources for present and future generations. The decisions in *MC Mehta v Union of India* and *Vellore Citizens Welfare Forum v Union of India* remain foundational authorities in this regard.⁷²

Furthermore, PIL has facilitated the protection of socio-economic rights, labour rights, gender equality, and the rights of marginalised communities. By broadening access to justice, India transformed standing from a procedural barrier into a mechanism for social transformation and sustainable development.⁷³ Nevertheless, concerns remain regarding judicial overreach, excessive judicial intervention in policy matters, and the potential misuse of PIL for political purposes.⁷⁴ Despite these concerns,

⁶⁹ Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company 1980).

⁷⁰ Sangeeta Khosla, 'Public Interest Litigation in India: Origins and Development' (2008) 3 *Environmental Law Review* 107; Shyam Divan and Armin Rosencranz, *Environmental Law and Policy in India* (3rd edn, OUP 2019).

⁷¹ *Subhash Kumar v State of Bihar* AIR (1991) SC 420.

⁷² *MC Mehta v Union of India* (1987) 1 SCC 395; *Vellore Citizens Welfare Forum v Union of India* (1996) 5 SCC 647.

⁷³ Sangeeta Khosla, 'Public Interest Litigation in India: Origins and Development' (2008) 3 *Environmental Law Review* 107.

⁷⁴ SP Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (2nd edn, OUP 2003).

India remains a leading example of how judicial innovation can expand access to justice and strengthen sustainable governance.

3.3 Kenya: Constitutional Transformation and Participatory Justice

Kenya offers one of the most comprehensive constitutional approaches to standing reform in contemporary constitutional law. Prior to the adoption of the Constitution of Kenya 2010, Kenyan courts generally applied restrictive standing principles inherited from the common-law tradition.⁷⁵ The promulgation of the 2010 Constitution fundamentally transformed access to justice by expressly constitutionalising broad standing rights. Articles 22 and 258 permit any person to institute proceedings alleging violations of constitutional rights or breaches of the Constitution, whether acting in their own interest, on behalf of another person, as a member of a group, in the public interest, or as an association acting on behalf of its members.⁷⁶

These provisions represent one of the broadest constitutional formulations of standing anywhere in the world. Kenyan courts have consistently interpreted these provisions liberally in order to promote constitutional accountability and citizen participation in governance.⁷⁷ The result has been a significant expansion of judicial oversight over governmental action and increased opportunities for civil society organisations and citizens to participate in constitutional governance.⁷⁸

Sustainable Development Implications

Kenya's constitutional framework directly advances sustainable development by embedding access to justice within the constitutional order. The broad standing provisions facilitate citizen participation in environmental governance, public accountability, anti-corruption

⁷⁵ Constitution of Kenya 2010, arts 22 and 258.

⁷⁶ Constitution of Kenya 2010, arts 22 and 258; Jill Cottrell Ghai and Yash Ghai, *Kenya's Constitution: An Instrument for Change* (Katiba Institute 2011).

⁷⁷ *Trusted Society of Human Rights Alliance v Attorney General* [2012] eKLR.

⁷⁸ Ben Sihanya, *Constitutional Democracy, Regulatory and Administrative Law in Kenya* (FesKenya 2011).

initiatives, and human rights enforcement.⁷⁹ Environmental protection has particularly benefited from the constitutionalisation of standing. Citizens and environmental organisations may challenge actions threatening ecological sustainability without the need to demonstrate personal injury.⁸⁰ This enhances environmental accountability and strengthens the enforcement of environmental rights.

The Kenyan model further promotes democratic governance by recognising that constitutional protection is a collective responsibility rather than merely an individual entitlement. By empowering citizens to act as constitutional watchdogs, Kenya has significantly enhanced accountability, transparency, and participatory governance.⁸¹ However, the effectiveness of these reforms continues to depend upon judicial consistency, institutional capacity, and adequate access to legal resources.

3.4 South Africa: Transformative Constitutionalism and Inclusive Standing

South Africa presents perhaps the most sophisticated constitutional model of standing reform among the jurisdictions examined in this study. The post-apartheid constitutional order was deliberately designed to facilitate access to justice and promote transformative constitutionalism.⁸² Section 38 of the Constitution of the Republic of South Africa, 1996 grants standing to a broad range of actors, including persons acting in their own interest, persons acting on behalf of others, members of groups or classes, persons acting in the public interest, and associations acting on behalf of their members.⁸³ This provision represents an explicit rejection of restrictive common-law standing doctrines and reflects a constitutional commitment to substantive justice and inclusive governance.⁸⁴ South African courts have consistently interpreted Section 38 broadly. In cases

⁷⁹ *ibid* 451–456.

⁸⁰ Constitution of Kenya 2010, art 70; Patricia Kameri-Mbote and Collins Odote, *The Making of Kenya's Environmental Law* (Strathmore University Press 2013).

⁸¹ Ben Sihanya, *Constitutional Democracy, Regulatory and Administrative Law in Kenya* (FesKenya 2011).

⁸² Constitution of the Republic of South Africa 1996, s 38.

⁸³ *ibid*.

⁸⁴ *Ferreira v Levin* NO 1996 (1) SA 984 (CC).

such as *Ferreira v Levin NO*, the Constitutional Court emphasised that standing provisions must be interpreted generously to facilitate constitutional enforcement and access to justice.⁸⁵

Sustainable Development Implications

South Africa's standing regime contributes significantly to sustainable development by facilitating the enforcement of environmental rights, socio-economic rights, and constitutional accountability. Section 24 of the Constitution guarantees the right to an environment that is not harmful to health or well-being and mandates environmental protection for present and future generations.⁸⁶ Liberal standing rules enable individuals and organisations to enforce these rights effectively. Similarly, public-interest litigation has played an important role in advancing access to housing, healthcare, education, water, and social welfare. Through these interventions, the courts have contributed to the achievement of social justice objectives closely aligned with sustainable development principles.⁸⁷ South Africa demonstrates that constitutionalising broad standing rights can strengthen judicial protection of collective interests while maintaining legal certainty and procedural discipline.⁸⁸

4. NIGERIA'S LEGAL AND INSTITUTIONAL CHALLENGES TO SUSTAINABILITY-ORIENTED PUBLIC INTEREST LITIGATION

The comparative analysis undertaken in the preceding section reveals that India, Kenya, South Africa, and the United Kingdom have progressively reconfigured their standing regimes to facilitate broader access to justice, strengthen constitutional accountability, and support sustainable

⁸⁵ *ibid.*

⁸⁶ Constitution of the Republic of South Africa 1996, s 24.

⁸⁷ *Government of the Republic of South Africa v Grootboom* (2001) 1 SA 46 (CC); *Minister of Health v Treatment Action Campaign* (2002) 5 SA 721 (CC).

⁸⁸ Karl Klare, 'Legal Culture and Transformative Constitutionalism' (1998) 14 South African Journal on Human Rights 146; Dinah Shelton, *Human Rights and the Environment* (Edward Elgar 2011).

development objectives.⁸⁹ Nigeria, however, continues to grapple with significant doctrinal and institutional obstacles that restrict the growth of Public Interest Litigation (PIL).⁹⁰ Although recent judicial decisions and procedural reforms suggest a gradual movement towards a more liberal approach, the Nigerian legal system remains largely influenced by restrictive standing doctrines inherited from the common-law tradition.⁹¹ These restrictions continue to impede access to justice in matters involving environmental protection, constitutional governance, corruption, public accountability, and socio-economic rights.⁹² This section examines the principal legal, constitutional, institutional, and practical barriers that limit the effectiveness of public-interest litigation in Nigeria and hinder the achievement of sustainable development objectives.⁹³

4.1 Restrictive Judicial Interpretation of Locus Standi

The most significant obstacle to the development of public-interest litigation in Nigeria remains the judiciary's historical adherence to restrictive standing principles.⁹⁴ The foundation of the restrictive approach is commonly traced to the decision of the Supreme Court in *Senator Abraham Adesanya v President of the Federal Republic of Nigeria*, where the Court held that a litigant must demonstrate a special interest or injury distinct from that suffered by the general public before acquiring standing to institute an action.⁹⁵ Although the decision sought to prevent excessive judicial interference in political disputes, its practical consequence has

⁸⁹ Brian Z Tamanaha, *On the Rule of Law: History, Politics, Theory* (Cambridge University Press 2004) 137–140.

⁹⁰ AA Yusuf, 'Public Interest Litigation and the Challenge of Locus Standi in Nigeria' (2014) 6 Nigerian Journal of Public Law 45.

⁹¹ Oluyemisi Bamgbose, 'Access to Justice and Public Interest Litigation in Nigeria' (2018) 12 Afe Babalola University Law Journal 98.

⁹² Chidi Anselm Odinkalu, 'Why the Courts Matter: Public Interest Litigation and Accountability in Nigeria' (2017) 9 African Human Rights Law Journal 221.

⁹³ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* UNGA Res 70/1 (2015) Goal 16.

⁹⁴ Ben Nwabueze, *Constitutional Democracy in Africa* (Spectrum Books 2003) 311.

⁹⁵ *Senator Abraham Adesanya v President of the Federal Republic of Nigeria* (1981) 5 SC 112, 129–131.

been the exclusion of many public-interest claims from judicial consideration.⁹⁶

Nigerian courts frequently dismiss actions at the preliminary stage without examining substantive constitutional or governance issues.⁹⁷ Subsequent decisions such as *Thomas v Olufosoye* reinforced this restrictive approach by insisting upon proof of personal injury or special interest as a prerequisite for standing.⁹⁸

The effect of this jurisprudence has been particularly severe in cases involving: environmental protection; anti-corruption initiatives; unconstitutional governmental actions; public expenditure oversight; electoral accountability; and governance-related disputes. In many instances, citizens and civil society organisations seeking to challenge actions affecting the wider public have been denied access to the courts because they could not demonstrate direct personal injury.⁹⁹ This restrictive approach contrasts sharply with developments in Kenya, South Africa, India, and the United Kingdom, where courts increasingly recognise that public wrongs may warrant judicial intervention even in the absence of individualised harm.¹⁰⁰ From a sustainable development perspective, such restrictive interpretations undermine the enforcement of rights and weaken institutional accountability.¹⁰¹

4.2 Constitutional Gaps in Nigeria's Standing Framework

Unlike Kenya and South Africa, Nigeria's Constitution contains no comprehensive provision expressly recognising public-interest

⁹⁶ Yemi Akinseye-George, *Judicialism and Public Law Litigation in Nigeria* (Centre for Socio-Legal Studies 2011) 73.

⁹⁷ Epiphany Azing and Bolaji Owasanoye, *Justiciability and Constitutionalism in Nigeria* (NIALS Press 2010) 215.

⁹⁸ *Thomas v Olufosoye* (1986) 1 NWLR (Pt 18) 669, 682–684.

⁹⁹ Gani Fawehinmi, *Nigerian Constitutional Law Reports: Public Interest Litigation and Human Rights* (Nig Ltd 2007) 53.

¹⁰⁰ SP Sath, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (2nd edn, OUP 2003) 186–192; Cora Hoexter, *Administrative Law in South Africa* (3rd edn, Juta 2021) 521–523.

¹⁰¹ Dinah Shelton, *Human Rights and the Environment* (Edward Elgar 2011) 88–92.

standing.¹⁰² The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides access to courts primarily through the protection of individual rights and the judicial powers vested in the courts.¹⁰³ However, it does not expressly authorise: public-interest standing; representative standing; associational standing; class standing; or citizen suits. The absence of clear constitutional provisions has created uncertainty regarding who may approach the courts to challenge governmental misconduct or enforce constitutional obligations.¹⁰⁴

In contrast, Articles 22 and 258 of the Constitution of Kenya and section 38 of the Constitution of the Republic of South Africa expressly recognise standing for persons acting in the public interest, on behalf of groups, or in representative capacities.¹⁰⁵ The absence of comparable provisions in Nigeria has allowed restrictive judicial interpretations to flourish and has limited the judiciary's ability to adopt a consistently expansive approach.¹⁰⁶ Consequently, access to justice remains dependent largely upon judicial discretion rather than constitutional entitlement.¹⁰⁷ This constitutional deficiency represents a significant impediment to achieving Sustainable Development Goal 16, which emphasises inclusive access to justice and effective institutions.¹⁰⁸

4.3 Inadequate Legislative Framework for Public Interest Litigation

A further challenge is the absence of a comprehensive statutory framework regulating public-interest litigation in Nigeria.¹⁰⁹ Unlike

¹⁰² Nnamdi Dimgba, 'Locus Standi and the Enforcement of Public Rights in Nigeria' (2015) 3 *Nigerian Law and Practice Journal* 74, 79.

¹⁰³ Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 6(6)(b), 36 and Chapter IV.

¹⁰⁴ AO Obilade, *The Nigerian Legal System* (Sweet & Maxwell 2005) 278.

¹⁰⁵ Constitution of Kenya 2010, arts 22 and 258; Constitution of the Republic of South Africa 1996, s 38; Migai Akech, 'The Role of Courts in Constitutional Governance in Kenya' (2015) 1 *Strathmore Law Journal* 33, 40.

¹⁰⁶ MO Ubani, 'Locus Standi and Public Interest Litigation in Nigeria: A Reappraisal' (2024) unpublished conference paper, 12.

¹⁰⁷ *ibid.*

¹⁰⁸ United Nations Development Programme, *Access to Justice and Sustainable Development Goal 16* (UNDP 2022) 5–8.

¹⁰⁹ BO Nwabueze, *Judicial Powers under the Nigerian Constitution* (C Hurst 1974) 219.

several jurisdictions that have developed legislative mechanisms for facilitating public-interest actions, Nigeria lacks a dedicated Public Interest Litigation Act.¹¹⁰ Consequently, there is no statutory guidance concerning: categories of public-interest claims; eligibility requirements for public-interest litigants; representative actions; citizen enforcement actions; procedural safeguards against abuse; or funding mechanisms for public-interest litigation. The absence of a legislative framework has resulted in uncertainty and inconsistency in judicial practice.¹¹¹

While the Fundamental Rights (Enforcement Procedure) Rules 2009 significantly liberalised standing in human rights cases by encouraging public-interest actions and broadening access to the courts, these reforms remain largely confined to the enforcement of fundamental rights.¹¹² Outside the human rights context, restrictive standing doctrines continue to dominate administrative law, constitutional litigation, environmental litigation, and public accountability disputes.¹¹³ The result is a fragmented legal framework that does not adequately support sustainable development-oriented litigation.

4.4 Environmental Justice and Access-to-Justice Deficits

The implications of restrictive standing are particularly evident in environmental governance.¹¹⁴ Nigeria faces serious environmental challenges including oil pollution in the Niger Delta, gas flaring, deforestation, biodiversity loss, waste management failures, industrial pollution, and climate-related vulnerabilities.¹¹⁵ These environmental harms frequently affect entire communities and ecosystems rather than

¹¹⁰ MA Ajomo and O Adigun, *Public Law in Nigeria* (University of Lagos Press 2012) 156.

¹¹¹ Yemi Akinseye-George, 'Public Interest Litigation and Democratic Accountability in Nigeria' (2016) 4 *Journal of African Law and Policy* 63, 70.

¹¹² Fundamental Rights (Enforcement Procedure) Rules 2009, Preamble para 3(e); see also *Fawehinmi v Akilu* (1987) 4 NWLR (Pt 67) 797.

¹¹³ Chidi Odinkalu, 'Human Rights Litigation and Access to Justice in Nigeria' (2019) 19 *African Human Rights Law Journal* 311, 319.

¹¹⁴ I Mgbeoji, *Global Biopiracy: Patents, Plants and Indigenous Knowledge* (UBC Press 2006) 212.

¹¹⁵ United Nations Environment Programme (UNEP), *Environmental Assessment of Ogoniland* (UNEP 2011) 13–25.

identifiable individuals.¹¹⁶ Traditional standing doctrines are therefore poorly suited to environmental litigation because environmental damage is often collective, cumulative, and intergenerational.¹¹⁷ Many affected communities face significant obstacles in obtaining judicial remedies due to poverty, lack of legal representation, and procedural barriers.¹¹⁸

Restrictive standing requirements may prevent environmental advocacy groups, civil society organisations, and concerned citizens from instituting actions designed to protect environmental interests.¹¹⁹ This undermines environmental accountability and weakens enforcement of environmental laws and regulations.¹²⁰ Environmental protection constitutes a central pillar of sustainable development. Consequently, procedural barriers that impede environmental litigation indirectly hinder Nigeria's ability to achieve sustainable development objectives and fulfil its international environmental commitments.¹²¹ The challenges associated with environmental justice in Nigeria have been highlighted by both domestic and international bodies. The adverse environmental consequences of oil exploration activities in the Niger Delta have generated extensive litigation and scholarly commentary concerning the inadequacy of existing legal remedies.¹²²

The decision of the *African Commission on Human and Peoples' Rights in Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* demonstrated the severe impact of environmental degradation on fundamental human rights and underscored the need for broader access to

¹¹⁶ Philippe Sands and Jacqueline Peel, *Principles of International Environmental Law* (4th edn, CUP 2018) 823.

¹¹⁷ Edith Brown Weiss, *In Fairness to Future Generations* (United Nations University 1989) 38–41.

¹¹⁸ Michael Anderson, 'Human Rights Approaches to Environmental Protection' in Alan Boyle and Michael Anderson (eds), *Human Rights Approaches to Environmental Protection* (OUP 1996) 8.

¹¹⁹ CO Okonkwo, 'Environmental Justice and Access to Courts in Nigeria' (2018) 10 *Nigerian Environmental Law Review* 66, 72.

¹²⁰ AA Yusuf, *Public Interest Litigation in Nigeria* (NIALS Press 2015) 143.

¹²¹ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* UNGA Res 70/1 (2015).

¹²² Jędrzej George Frynas, *Oil in Nigeria: Conflict and Litigation between Oil Companies and Village Communities* (LIT Verlag 2000) 177–201.

justice mechanisms.¹²³ The case remains one of the most significant illustrations of the relationship between environmental protection, human rights, and sustainable development in Africa.¹²⁴

4.5 Institutional Capacity Challenges Within the Judiciary

Even where standing requirements are relaxed, institutional challenges within the judicial system usually undermine access to justice.¹²⁵ The Nigerian judiciary faces several operational constraints that affect the effectiveness of public-interest litigation and sustainable development-oriented adjudication.¹²⁶

Such operational constraints include the following:

(a) Judicial Delays

Public-interest cases frequently experience prolonged delays due to congested court dockets, procedural adjournments, and systemic inefficiencies.¹²⁷ Environmental and governance-related disputes often require urgent intervention, yet litigation may take several years before final determination.¹²⁸ Such delays undermine the effectiveness of judicial remedies and may render successful judgments practically meaningless.¹²⁹

(b) Limited Judicial Specialisation

Complex public-interest disputes frequently involve specialised issues relating to environmental regulation, constitutional governance, public finance, climate change, sustainable development, and human rights.¹³⁰

¹²³ *Social and Economic Rights Action Centre (SERAC) and Another v Nigeria* (2001) AHRLR 60 (ACHPR 2001).

¹²⁴ Ben Boer (ed), *Environmental Law and Human Rights in Africa* (OUP 2015).

¹²⁵ M Loughlin, *Foundations of Public Law* (OUP 2010) 478.

¹²⁶ Epiphany Azinge and Bolaji Owasanoye, *Justiciability and Constitutionalism in Nigeria* (NIALS Press 2010) 233.

¹²⁷ Hakeem O Bello, 'Delay in Administration of Justice in Nigeria' (2019) 7 ABUAD Law Journal 99, 103.

¹²⁸ Yemi Akinseye-George, *Judicial Reform and Transformation in Nigeria* (Centre for Socio-Legal Studies 2017) 55.

¹²⁹ Roscoe Pound, 'The Causes of Popular Dissatisfaction with the Administration of Justice' (1906) 29 ABA Rep 395.

¹³⁰ Dinah Shelton, *Environmental Rights* (OUP 2022) 417.

Many courts lack specialised divisions or adequately trained personnel capable of addressing these evolving legal challenges efficiently.¹³¹ Comparative experiences from South Africa and Kenya demonstrate the value of specialised constitutional and environmental adjudicatory mechanisms in promoting effective access to justice.¹³²

(c) Resource Constraints

Insufficient funding, inadequate infrastructure, limited technological resources, and shortages of judicial personnel continue to affect judicial efficiency in Nigeria.¹³³ These institutional weaknesses contribute to delays in case management and reduce the judiciary's ability to serve as an effective mechanism for accountability and sustainable governance.¹³⁴ These challenges reduce the effectiveness of courts as instruments of sustainable development and accountability.¹³⁵

(d) Conservative Judicial Culture

Some judicial officers continue to adopt highly formalistic approaches to procedural requirements and questions of standing.¹³⁶ Such conservatism may discourage innovative approaches to public-interest litigation and hinder the evolution of standing doctrines necessary for addressing contemporary governance and sustainability challenges.¹³⁷ Although recent decisions indicate a gradual shift towards greater flexibility, judicial attitudes remain inconsistent across different courts and jurisdictions.¹³⁸

¹³¹ CM Fombad, 'Strengthening Constitutional Justice in Africa' (2017) 17 *African Human Rights Law Journal* 1, 18.

¹³² *ibid* 20–23.

¹³³ National Judicial Council, *Annual Report on Judicial Performance* (NJC 2023) 14–18.

¹³⁴ World Bank, *Enhancing Justice Delivery in Nigeria* (World Bank Report 2021) 21–24.

¹³⁵ UNDP, *Rule of Law and Sustainable Development* (UNDP 2022) 17.

¹³⁶ Ben Nwabueze, *Constitutional Democracy in Africa* (Spectrum Books 2003) 315.

¹³⁷ Nnamdi Dimgba, 'Public Interest Litigation and Judicial Attitudes in Nigeria' (2016) 8 *Nigerian Juridical Review* 101, 109.

¹³⁸ *Centre for Oil Pollution Watch v NNPC* (2019) 5 NWLR (Pt 1666) 518.

4.6 Financial Barriers and Weak Support Structures

Public-interest litigation is often expensive and resource-intensive.¹³⁹ Civil society organisations and community groups frequently encounter difficulties in funding litigation against powerful governmental institutions and corporate entities.¹⁴⁰ Several factors contribute to this challenge: high filing fees; legal representation costs; expert witness expenses; prolonged litigation periods; and adverse costs risks. Unlike some jurisdictions that provide litigation support mechanisms, legal aid programmes, contingency funding arrangements, or public-interest litigation funds, Nigeria lacks robust institutional support for public-interest litigants.¹⁴¹ The Legal Aid Council framework remains largely focused on criminal defence and limited civil matters, leaving substantial gaps in support for environmental and governance-related public-interest claims.¹⁴²

The financial burden associated with litigation discourages many potentially meritorious public-interest claims.¹⁴³ Consequently, unlawful governmental actions and environmental harms may remain unchallenged due to economic constraints rather than legal merit.¹⁴⁴ The absence of sustainable funding structures for public-interest litigation weakens civil society participation and limits the capacity of courts to perform their constitutional accountability function effectively.¹⁴⁵

4.7 Civil Society Constraints and Public Participation Deficits

Civil society organisations play an essential role in advancing sustainable development by promoting accountability, environmental protection,

¹³⁹ Mauro Cappelletti and Bryant Garth, *Access to Justice* (Vol 1, Sijthoff 1978) 8–10.

¹⁴⁰ Chidi Odinkalu, 'Civil Society and Public Interest Litigation in Nigeria' (2018) 18 *African Human Rights Law Journal* 412, 420.

¹⁴¹ Mauro Cappelletti and Bryant Garth, *Access to Justice* (Vol 1, Sijthoff 1978) 8–10.

¹⁴² Legal Aid Council Act, Cap L9 Laws of the Federation of Nigeria 2004.

¹⁴³ AA Yusuf, *Public Interest Litigation in Nigeria* (NIALS Press 2015) 143.

¹⁴⁴ Chidi Odinkalu, 'Civil Society and Public Interest Litigation in Nigeria' (2018) 18 *African Human Rights Law Journal* 412, 420

¹⁴⁵ Mauro Cappelletti, *The Judicial Process in Comparative Perspective* (Clarendon Press 1989) 284.

transparency, and human rights.¹⁴⁶ However, Nigerian civil society organisations frequently encounter obstacles that limit their ability to utilise litigation as an advocacy tool.¹⁴⁷ These challenges include: inadequate funding; limited institutional capacity; procedural restrictions; difficulties obtaining relevant information; and prolonged judicial processes. The inability of civil society actors to effectively participate in litigation weakens democratic accountability and reduces opportunities for citizen engagement in governance.¹⁴⁸ Sustainable development requires active public participation in governmental decision-making processes.¹⁴⁹ Restrictive standing doctrines therefore indirectly diminish democratic engagement and undermine participatory governance.¹⁵⁰

Furthermore, access-to-information challenges continue to impede the effectiveness of public-interest litigation despite the enactment of the Freedom of Information Act 2011.¹⁵¹ The inability of civil society organisations to obtain timely information concerning governmental decisions, environmental impacts, public procurement processes, and public expenditure often undermines efforts to pursue accountability through litigation.¹⁵²

4.8 Emerging Judicial Developments and Opportunities for Reform

Despite these challenges, recent developments suggest opportunities for reform.¹⁵³ The Supreme Court's decision in *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* signalled a notable departure

¹⁴⁶ Innocent Chukwumma, 'Civil Society and Democratic Governance in Nigeria' (2017) 15 *Nigerian Journal of Social Studies* 88.

¹⁴⁷ *ibid.*

¹⁴⁸ *ibid.*

¹⁴⁹ John Gaventa and Gregory Barrett, 'Mapping the Outcomes of Citizen Engagement' (2012) 40 *World Development* 2399.

¹⁵⁰ Dinah Shelton, *Environmental Rights* (OUP 2022).

¹⁵¹ Freedom of Information Act, 2011.

¹⁵² Joseph Odinkalu, *Freedom of Information and Accountability in Nigeria* (2015) 5 *Nigerian Bar Journal*, 31.

¹⁵³ John Gaventa and Gregory Barrett, 'Mapping the Outcomes of Citizen Engagement' (2012) 40 *World Development* 2399; Rio Declaration on Environment and Development 1992, Principle 10.

from rigid standing doctrines.¹⁵⁴ The Court recognised the importance of facilitating access to justice in environmental matters and adopted a more liberal approach to standing.¹⁵⁵ Significantly, the Court acknowledged that environmental degradation affects communities collectively and that restrictive standing requirements may frustrate the enforcement of environmental obligations.¹⁵⁶

Similarly, the Fundamental Rights (Enforcement Procedure) Rules 2009 explicitly encourage public-interest litigation and broaden access to courts in human rights cases.¹⁵⁷ The Preamble to the Rules directs courts to adopt expansive and purposive interpretations capable of advancing human rights protection and access to justice.¹⁵⁸ This development represents one of the most important procedural reforms in Nigeria's contemporary human rights jurisprudence.¹⁵⁹ Additional support for a liberalised standing regime may also be found in judicial decisions recognising the importance of constitutional accountability and good governance.¹⁶⁰ Although these developments remain incremental, they indicate a growing judicial appreciation of the role of public-interest litigation in strengthening democratic governance and sustainable development.¹⁶¹

Nevertheless, isolated judicial decisions cannot substitute for comprehensive constitutional, legislative, and institutional reforms.¹⁶² Without a coherent framework for public-interest standing, progress will likely remain inconsistent and dependent upon individual judicial discretion.¹⁶³ Sustainable development requires systematic access-to-

¹⁵⁴ *Centre for Oil Pollution Watch v NNPC* (2019) 5 NWLR (Pt 1666) 518.

¹⁵⁵ *ibid* 560-562.

¹⁵⁶ *ibid*.

¹⁵⁷ Fundamental Human Rights (Enforcement Procedure) Rules, 2009, Preamble.

¹⁵⁸ F Falana, *Fundamental Rights Enforcement in Nigeria* (2nd edn, Legal Text Publishing Company Ltd 2010).

¹⁵⁹ *ibid*

¹⁶⁰ MO Ubani, 'Reforming Locus Standi in Nigeria: Emerging Judicial Trends' (2024) Conference Paper 15.

¹⁶¹ *ibid*.

¹⁶² *ibid*.

¹⁶³ *ibid*.

justice mechanisms capable of facilitating citizen participation in governance and accountability processes.¹⁶⁴

5. PROPOSED CONSTITUTIONAL, LEGISLATIVE AND JUDICIAL REFORMS FOR THE ENHANCEMENT OF PUBLIC INTEREST LITIGATION IN NIGERIA

The preceding chapters have demonstrated that despite recent judicial efforts to liberalise standing requirements, the doctrine of locus standi remains a significant obstacle to the effective development of public interest litigation (PIL) in Nigeria. The inconsistency of judicial decisions, the absence of a comprehensive statutory framework governing PIL, and the restrictive interpretation of constitutional provisions have collectively impeded access to justice, particularly for vulnerable and marginalised groups. The comparative analysis of Kenya, India, South Africa, and the United Kingdom further reveals that meaningful access to justice is best achieved where constitutional provisions, legislative interventions, and judicial attitudes operate in a mutually reinforcing manner.

This section, therefore, proposes constitutional, legislative, and judicial reforms aimed at expanding access to justice while preserving the integrity of the judicial process and preventing abuse of court procedures.

5.1 Constitutional Reforms

5.1.1 Constitutional Recognition of Public Interest Litigation

One of the major deficiencies in the Nigerian constitutional framework is the absence of an express provision recognising public interest litigation. Unlike the Constitution of Kenya 2010 and the Constitution of South Africa 1996, the Constitution of the Federal Republic of Nigeria 1999 (as amended) does not expressly confer standing on individuals or organisations acting in the public interest.

Article 22 of the Constitution of Kenya permits any person to institute proceedings alleging a violation of fundamental rights either in their own interest, on behalf of another person who cannot act in their own name, as

¹⁶⁴ United Nations, The Sustainable Development Goals Report 2024 (UN 2024) 41.

a member of a group or class of persons, or in the public interest. Similarly, section 38 of the Constitution of South Africa expressly grants standing to anyone acting in the public interest in constitutional litigation. These provisions have significantly contributed to the growth of public interest jurisprudence in both jurisdictions.¹⁶⁵

The Nigerian Constitution should therefore be amended to introduce a similar provision granting standing to:

- (a) any person acting in the public interest;
- (b) any association acting in the interest of its members;
- (c) any civil society organisation acting in the protection of constitutional rights;
- (d) any person acting on behalf of individuals or groups unable to approach the courts.

Such a constitutional amendment would eliminate uncertainties arising from judicial interpretation and establish a firm foundation for PIL in Nigeria. As Niki Tobi observed, access to court constitutes the gateway to justice, and a legal system that erects unnecessary barriers to standing ultimately undermines the rule of law.¹⁶⁶

5.1.2 Expansion of Enforcement Mechanisms under Chapter II

Another constitutional limitation lies in the non-justiciability of Chapter II of the Constitution containing the Fundamental Objectives and Directive Principles of State Policy. By virtue of section 6(6)(c) of the Constitution, courts are generally precluded from enforcing these socio-economic objectives. The consequence is that many matters of significant public concern - including access to healthcare, education, environmental protection, and social welfare – remain beyond effective judicial scrutiny despite their direct impact on citizens. The experience of India

¹⁶⁵ Constitution of Kenya 2010, arts 22 and 258; Constitution of the Republic of South Africa 1996, s 38.

¹⁶⁶ Niki Tobi, *Sources of Nigerian Law* (MIJ Publishers 1996).

demonstrates that PIL can serve as an effective mechanism for enforcing socio-economic rights. Through an expansive interpretation of Article 21 of the Indian Constitution, the Indian Supreme Court transformed several socio-economic claims into enforceable constitutional rights.¹⁶⁷

Similarly, the Constitutional Court of South Africa has successfully adjudicated socio-economic rights claims involving housing, healthcare, and social welfare.¹⁶⁸ A constitutional amendment should therefore permit citizens and public interest organisations to challenge governmental actions or omissions that undermine the objectives contained in Chapter II where such failures substantially affect constitutional governance, human dignity, or fundamental rights. Such reform would align with the argument advanced by Ben Nwabueze that constitutional objectives should not merely serve symbolic purposes but should function as enforceable standards for governmental accountability.¹⁶⁹

5.1.3 Constitutional Recognition of Representative Actions

The Nigerian Constitution presently lacks comprehensive provisions authorising representative constitutional actions in the public interest. Although the Fundamental Rights (Enforcement Procedure) Rules 2009 broadened access to courts, they remain subsidiary legislation and cannot substitute for constitutional guarantees. The Constitution should therefore expressly recognise representative actions in matters involving:

- (a) environmental protection;
- (b) consumer rights;
- (c) anti-corruption enforcement;
- (d) electoral accountability;
- (e) protection of vulnerable groups;

¹⁶⁷ *Maneka Gandhi v Union of India* AIR 1978 SC 597; *Bandhua Mukti Morcha v Union of India* AIR 1984 SC 802.

¹⁶⁸ *Government of the Republic of South Africa v Grootboom* [2000] ZACC 19; *Minister of Health v Treatment Action Campaign* [2002] ZACC 15.

¹⁶⁹ Ben Nwabueze, *Constitutional Democracy in Africa* (Spectrum Books 2003).

(f) constitutional governance.

This approach would reflect contemporary developments in comparative constitutional law and strengthen democratic accountability.¹⁷⁰

5.2 Legislative Reforms

5.2.1 Enactment of a Public Interest Litigation Act

The absence of a comprehensive statutory framework regulating PIL remains a major weakness within the Nigerian legal system. India's experience demonstrates that although judicial innovation can facilitate access to justice, legislative support remains desirable for consistency and certainty.¹⁷¹ Nigeria should therefore enact a Public Interest Litigation Act providing for:

- (a) the definition and scope of public interest litigation;
- (b) categories of persons entitled to institute PIL actions;
- (c) procedures for commencement and determination of PIL matters;
- (d) mechanisms for screening frivolous claims;
- (e) costs and funding arrangements;
- (f) remedies available in successful cases.

Such legislation would codify principles that have gradually emerged through judicial decisions and provide clear guidance to litigants and courts. The proposed legislation should particularly recognise the standing of registered civil society organisations, professional bodies, human rights organisations and public-spirited individuals to institute proceedings where issues of constitutional importance arise.

¹⁷⁰ M Cappelletti, 'The Judicial Process in Comparative Perspective' (1989) 58 California Law Review 1017.

¹⁷¹ SP Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (2nd edn, OUP 2002).

5.2.2 Statutory Codification of Liberal Standing Rules

The judicial decisions examined in this study reveal considerable inconsistency regarding standing requirements. While cases such as *Centre for Oil Pollution Watch v NNPC* signalled a progressive shift towards liberal standing, other decisions continue to reflect restrictive approaches inherited from earlier authorities.¹⁷² Legislation should therefore codify the principles articulated by the Supreme Court in *Centre for Oil Pollution Watch v NNPC* and expressly provide that standing exists where:

- (a) a claimant demonstrates a genuine public interest;
- (b) the matter concerns constitutional governance or public accountability;
- (c) the action seeks protection of collective rights;
- (d) no more suitable claimant is reasonably available.

Such statutory clarification would promote certainty and reduce unnecessary preliminary objections that frequently delay substantive adjudication.

5.2.3 Strengthening the Fundamental Rights (Enforcement Procedure) Rules

The Fundamental Rights (Enforcement Procedure) Rules 2009 represent perhaps the most significant attempt to liberalise standing in Nigeria. The Preamble expressly encourages public interest litigation and broadens access to courts.¹⁷³ Nevertheless, the Rules remain limited to fundamental rights enforcement and do not extend to many other categories of public interest disputes. Legislation should therefore expand the philosophy embodied in the Rules beyond fundamental rights matters to include environmental protection, anti-corruption proceedings, consumer protection, electoral accountability, and constitutional governance. This

¹⁷² *Centre for Oil Pollution Watch v NNPC* (2019) 5 NWLR (Pt. 1666) 518.

¹⁷³ Fundamental Rights (Enforcement Procedure) Rules 2009, Preamble paras 3(e), 3(f) and 3(g)

would institutionalise the progressive objectives championed by the late Hon Justice Chukwudifu Oputa, who consistently advocated a justice-oriented rather than technical approach to standing.¹⁷⁴

5.3 Judicial Reforms

5.3.1 Adoption of a Consistent Liberal Approach to Standing

The most significant reform required within the judicial sphere is the adoption of a coherent and consistent jurisprudence on locus standi. The analysis undertaken in this study demonstrates that Nigerian courts have oscillated between restrictive and liberal interpretations of standing, thereby creating uncertainty in public interest litigation. Earlier decisions, such as *Adesanya v President of the Federal Republic of Nigeria* established a restrictive approach requiring proof of special or personal injury before standing could be recognised.¹⁷⁵ Subsequent decisions, however, particularly *Fawehinmi v Akilu*, *Fawehinmi v President, FRN* and *Centre for Oil Pollution Watch v NNPC*, signalled a gradual departure from strict standing requirements in matters affecting public rights and constitutional accountability.¹⁷⁶

To promote certainty and enhance access to justice, Nigerian courts should consistently apply the broader principles articulated in *Centre for Oil Pollution Watch v NNPC*, where the Supreme Court recognised that public-spirited individuals and organisations may legitimately seek judicial intervention in matters affecting the public interest.¹⁷⁷ The judiciary should therefore adopt a purposive approach that prioritises the vindication of constitutional values over procedural technicalities. Such an approach would be consistent with the constitutional obligation of courts to uphold the rule of law and ensure governmental accountability.

¹⁷⁴ Chukwudifu Oputa, *Human Rights in the Political and Legal Culture of Nigeria* (NIALS 1989).

¹⁷⁵ *Senator Abraham Adesanya v President of the Federal Republic of Nigeria* (1981) 2 NCLR 358.

¹⁷⁶ *Fawehinmi v Akilu* (1987) 4 NWLR (Pt. 67) 797 (SC); *Fawehinmi v President, Federal Republic of Nigeria* 2007) 14 NWLR (Pt. 1054) 275 (CA).

¹⁷⁷ *Centre for Oil Pollution Watch v NNPC* (2019) 5 NWLR (Pt. 1666) 518.

5.3.2 Development of Specialised Public Interest Litigation Jurisprudence

Comparative experience demonstrates that the growth of public interest litigation often depends on judicial innovation and the willingness of courts to develop procedures suitable for public interest disputes. The Indian Supreme Court developed distinctive PIL procedures, including epistolary jurisdiction, relaxed evidential requirements and continuing mandamus orders, to facilitate access to justice for disadvantaged groups.¹⁷⁸ Although some of these mechanisms may not be entirely suitable within the Nigerian legal system, Nigerian courts can nevertheless develop specialised procedural approaches for PIL matters. Such approaches may include:

- (a) expedited hearing of matters involving significant public interest;
- (b) flexible procedural requirements where strict compliance would impede justice;
- (c) appointment of *amici curiae* in complex constitutional disputes;
- (d) enhanced use of declaratory and structural remedies.

Such innovations would strengthen the capacity of courts to address systemic violations affecting large segments of society.

5.3.3 Judicial Training and Capacity Building

The effectiveness of public interest litigation depends substantially upon judicial appreciation of constitutional values, comparative jurisprudence and contemporary human rights standards. Regular judicial education programmes should therefore be organised through the National Judicial Institute to expose judges to developments in constitutional adjudication and public interest litigation within Nigeria and other common law jurisdictions. Particular attention should be devoted to:

¹⁷⁸ SP Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (2nd edn, Oxford University Press 2002); Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4 *Third World Legal Studies* 107.

- (a) comparative constitutional law;
- (b) environmental justice;
- (c) socio-economic rights adjudication;
- (d) anti-corruption litigation;
- (e) international human rights law.

Such programmes would facilitate the emergence of a more coherent and progressive body of jurisprudence relating to public interest litigation.

5.4 Safeguards Against Abuse of Public Interest Litigation

5.4.1 The Need for Balanced Reform

While the expansion of standing is essential for improving access to justice, unlimited access may expose the judicial process to abuse. Critics of liberal standing have argued that unrestricted public interest litigation may encourage frivolous claims, political vendettas and excessive judicial interference in matters better suited for resolution by elected institutions.¹⁷⁹ The challenge therefore lies in balancing openness with judicial efficiency. The comparative jurisdictions examined in this study demonstrate that liberal standing can coexist with appropriate safeguards designed to prevent abuse.

5.4.2 Requirement of Genuine Public Interest

One safeguard should be the requirement that every claimant demonstrate a genuine public interest in the subject matter of the litigation. This requirement does not demand proof of personal injury but requires the claimant to establish that the proceedings seek to protect constitutional values, public rights or collective interests rather than private or ulterior objectives. The Supreme Court of Canada adopted a similar approach in recognising public interest standing while insisting that litigation must raise serious justiciable issues and be pursued by suitable parties acting in

¹⁷⁹ Joseph Raz, 'The Rule of Law and Its Virtue' (1977) 93 *Law Quarterly Review* 195.

good faith.¹⁸⁰ Nigerian courts should adopt comparable principles when determining whether a claimant qualifies to institute public interest proceedings.

5.4.3 Judicial Power to Dismiss Frivolous or Vexatious Actions

Legislation should expressly empower courts to dismiss frivolous, vexatious, or abusive public interest actions at an early stage. Such powers would ensure that judicial resources are devoted to genuine public interest controversies while discouraging misuse of the courts for political or personal purposes. This safeguard is particularly important in a developing democracy where public interest litigation may occasionally be exploited for partisan objectives.

5.4.4 Appropriate Costs Regime

The traditional rule that costs follow events may discourage legitimate public interest litigation. Many public interest claims are brought by civil society organisations and individuals acting without personal benefit. Excessive exposure to adverse costs orders may therefore deter deserving litigants from approaching the courts. Consequently, courts should exercise their discretion regarding costs in a manner that promotes access to justice. In appropriate cases involving genuine public interest concerns, courts should be empowered to:

- (a) decline to award costs against unsuccessful public interest litigants;
- (b) grant protective costs orders;
- (c) award costs against public authorities whose conduct necessitated litigation.

Such measures have been utilised in the United Kingdom and South Africa to encourage legitimate public interest claims while discouraging abuse.¹⁸¹

¹⁸⁰ *Canada (Attorney General) v Downtown Eastside Sex Workers United Against Violence Society* (2012) SCC 45.

¹⁸¹ *R (Corner House Research) v Secretary of State for Trade and Industry* [2005] 1 WLR 2600; *Biowatch Trust v Registrar, Genetic Resources* [2009] ZACC 14.

5.5 Institutional Reforms

5.5.1 Establishment of Public Interest Litigation Support Mechanisms

The effectiveness of public interest litigation depends not only upon legal rules but also upon institutional support. Many public interest claims involve disadvantaged communities lacking the financial capacity to engage in prolonged litigation. Accordingly, mechanisms should be developed to provide legal and financial assistance to deserving public-interest cases. Such mechanisms may include:

- (a) public interest litigation funds;
- (b) legal aid support for constitutional litigation;
- (c) grants for civil society organisations engaged in public interest advocacy;
- (d) pro bono litigation schemes coordinated by professional bodies.

These initiatives would significantly enhance access to justice for vulnerable groups.

5.5.2 Strengthening Civil Society Participation

Comparative experience demonstrates that civil society organisations play a critical role in advancing public interest litigation. Organisations such as the Legal Resources Centre in South Africa and the People's Union for Civil Liberties in India have contributed substantially to constitutional development through strategic litigation. Nigeria should encourage similar participation by ensuring that civil society organisations have clear statutory authority to initiate public-interest proceedings on behalf of affected communities and vulnerable persons.

5.5.3 Enhanced Role of the Nigerian Bar Association

The Nigerian Bar Association should assume a more active role in promoting public interest litigation. The Association can contribute through:

- (a) public interest litigation committees;

- (b) pro bono representation schemes;
- (c) strategic constitutional litigation;
- (d) continuing legal education programmes on PIL.

The legal profession has historically played a central role in advancing constitutional governance and should continue to do so through organised support for public interest litigation.

This paper has demonstrated that the doctrine of locus standi remains one of the most significant impediments to the development of public interest litigation in Nigeria. Although recent judicial decisions and the Fundamental Rights (Enforcement Procedure) Rules 2009 have introduced important reforms, substantial barriers continue to limit access to justice. The comparative experiences of Kenya, India, South Africa, and the United Kingdom reveal that effective public interest litigation flourishes where constitutional provisions, legislative frameworks, and judicial attitudes operate harmoniously to facilitate access to courts while maintaining safeguards against abuse.

Nigeria can draw valuable lessons from these jurisdictions by adopting constitutional amendments recognising public interest standing, enacting comprehensive public interest litigation legislation, embracing a more liberal and consistent judicial approach to standing, and strengthening institutional support mechanisms for public interest litigation. Ultimately, the sustainability of public interest litigation depends upon a legal system that recognises that access to justice is not merely a procedural privilege but a constitutional imperative. A reformed doctrine of locus standi, grounded in constitutionalism, accountability, and inclusiveness, would enhance democratic governance, strengthen the protection of human rights, and advance the administration of justice in Nigeria.

6.1 RECOMMENDATIONS

Arising from the findings of this study, and having regard to the comparative experiences of Kenya, India, South Africa and the United Kingdom, the following recommendations are proposed for the enhancement and sustainability of public interest litigation in Nigeria.

6.1.1 Constitutional Recognition of Public Interest Standing

The Constitution of the Federal Republic of Nigeria 1999 (as amended) should be amended to expressly recognise public interest standing. Such an amendment should authorise any person acting in the public interest, any association acting on behalf of its members, and any civil society organisation acting in the protection of constitutional rights or public interests to institute proceedings before the courts. The experiences of Kenya and South Africa demonstrate that constitutional recognition of public interest standing significantly reduces procedural disputes and promotes access to justice.¹⁸²

An express constitutional provision would also eliminate the uncertainty generated by conflicting judicial interpretations of locus standi and establish a uniform standard applicable throughout the federation.

6.1.2 Enactment of a Public Interest Litigation Act

Nigeria should enact a comprehensive Public Interest Litigation Act to regulate and promote public interest litigation. The proposed legislation should define the concept of public interest litigation, identify eligible claimants, prescribe procedures for instituting public interest actions and establish safeguards against frivolous litigation.¹⁸³

The legislation should further provide for:

- (a) representative actions;
- (b) class actions involving public rights;
- (c) public interest interventions by civil society organisations;
- (d) costs protection mechanisms;

¹⁸² Constitution of Kenya 2010, arts 22 and 258; Constitution of the Republic of South Africa 1996, s 38.

¹⁸³ M Cappelletti and B Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective* (Sijthoff and Noordhoff 1978).

(e) expedited hearing of matters involving significant constitutional or public concerns.

The enactment of such legislation would provide clarity, predictability and institutional support for the growth of public interest litigation.

6.1.3 Codification of the Principles Established in *Centre for Oil Pollution Watch v NNPC*

The liberal standing principles articulated by the Supreme Court in *Centre for Oil Pollution Watch v NNPC* should be codified through legislation.¹⁸⁴ Statutory recognition of these principles would ensure that public interest litigants are not denied access to court merely because they cannot demonstrate personal injury. Standing should be recognised where a claimant demonstrates:

- (a) a genuine public interest;
- (b) a substantial constitutional issue;
- (c) protection of collective rights;
- (d) absence of a more appropriate claimant.

Codification would reduce procedural objections and enable courts to focus on substantive justice.

6.1.4 Expansion of the Scope of the Fundamental Rights (Enforcement Procedure) Rules

The philosophy underlying the Fundamental Rights (Enforcement Procedure) Rules 2009 should be extended beyond fundamental rights enforcement.¹⁸⁵ Presently, the Rules provide a liberal standing regime only in matters involving fundamental rights. Similar procedural flexibility should be extended to litigation concerning environmental protection, anti-corruption enforcement, consumer protection, electoral

¹⁸⁴ *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* (2019) 5 NWLR (Pt 1666) 518.

¹⁸⁵ Fundamental Rights (Enforcement Procedure) Rules 2009, Preamble paras 3(e), (f) and (g).

accountability and constitutional governance. This reform would further strengthen access to justice and encourage public participation in constitutional enforcement.

6.1.5 Judicial Adoption of a Purposive Interpretation of Standing

Nigerian courts should consistently adopt a purposive and liberal approach to locus standi in matters involving public interest claims. Judicial emphasis should shift from technical standing requirements towards substantive consideration of constitutional issues raised by litigants.¹⁸⁶ The judiciary should recognise that the principal purpose of public interest litigation is the protection of constitutional values and public rights rather than the vindication of private interests.

Such an approach would align with contemporary constitutional jurisprudence and promote the rule of law.

6.1.6 Strengthening Judicial Education and Comparative Learning

The National Judicial Institute should intensify judicial training programmes relating to constitutional adjudication, public interest litigation and comparative jurisprudence.¹⁸⁷ Judicial officers should be exposed to developments in jurisdictions that have successfully utilised public interest litigation as a tool for constitutional governance and social justice.

Training programmes should include:

- (a) public interest standing;
- (b) environmental justice;
- (c) socio-economic rights adjudication;
- (d) structural remedies;

¹⁸⁶ *Fawehinmi v Akilu* (1987) 4 NWLR (Pt 67) 797; *Fawehinmi v President, Federal Republic of Nigeria* (2007) 14 NWLR (Pt 1054) 275.

¹⁸⁷ Aharon Barak, *The Judge in a Democracy* (Princeton University Press 2006).

(e) comparative constitutional law.

Enhanced judicial education would contribute significantly to doctrinal coherence and judicial consistency.

6.1.7 Development of Protective Costs Regimes

Appropriate costs rules should be developed to encourage responsible public interest litigation. The fear of adverse costs orders remains a major deterrent to public interest litigation, particularly for civil society organisations and public-spirited individuals acting without personal gain.¹⁸⁸

Legislation or judicial practice directions should empower courts to:

- (a) grant protective costs orders;
- (b) waive adverse costs in deserving public interest cases;
- (c) award costs against public authorities whose unlawful conduct necessitated litigation.

Such measures would improve access to justice while preserving judicial discretion.

6.1.8 Establishment of Public Interest Litigation Support Funds

Government, professional associations and development partners should collaborate to establish public interest litigation support funds capable of assisting deserving litigants and civil society organisations.¹⁸⁹ Access to funding remains a significant obstacle to constitutional litigation in Nigeria. Dedicated funding mechanisms would facilitate the pursuit of meritorious claims involving environmental protection, anti-corruption enforcement, electoral accountability and human rights protection.

¹⁸⁸ *R (Corner House Research) v Secretary of State for Trade and Industry* [2005] EWCA Civ 192; *Biowatch Trust v Registrar, Genetic Resources* 2009 (6) SA 232 (CC).

¹⁸⁹ Mauro Cappelletti, 'Access to Justice and the Welfare State' (1981) 8 Florida State University Law Review 181.

6.1.9 Strengthening the Role of Civil Society Organisations

Civil society organisations should be accorded express statutory recognition as legitimate public interest litigants. The experiences of India and South Africa demonstrate that civil society organisations frequently serve as effective representatives of disadvantaged communities unable to access courts independently.¹⁹⁰ Legislation should therefore provide clear authority for recognised organisations to institute proceedings in defence of public rights and constitutional values.

6.1.10 Promotion of Access to Justice as a Constitutional Value

Ultimately, public interest litigation should be viewed not merely as a procedural innovation but as an essential component of constitutional democracy. The continued development of locus standi in Nigeria should be guided by the constitutional values of accountability, transparency, inclusiveness, participation and the rule of law.¹⁹¹ Courts, legislatures and policymakers must therefore recognise that access to justice is a constitutional imperative and that procedural rules should facilitate rather than obstruct the enforcement of public rights. Only through such a holistic approach can public interest litigation fulfil its potential as a mechanism for constitutional governance, democratic accountability and social transformation in Nigeria.

6.2. CONCLUSION

This paper set out to examine the sustainability of the doctrine of locus standi in public interest litigation in Nigeria and to assess whether the existing legal framework adequately promotes access to justice in matters affecting collective rights, constitutional governance and public accountability. The investigation was necessitated by the persistent tension between the traditional common law conception of standing, which requires proof of sufficient personal interest, and the modern demands of

¹⁹⁰ Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4 Third World Legal Studies 107; C Murray and K O'Regan, 'Public Interest Litigation and the South African Constitution' (2008) 124 South African Law Journal 441.

¹⁹¹ Ben Nwabueze, *Constitutionalism in the Emergent States* (Hurst & Company 1973); AV Dicey, *Introduction to the Study of the Law of the Constitution* (10th edn, Macmillan 1959).

constitutional democracy, which increasingly recognise the legitimacy of public interest actions brought on behalf of disadvantaged groups and society at large. The paper has demonstrated that the doctrine of locus standi remains one of the most contentious procedural barriers within Nigerian jurisprudence.

Historically, Nigerian courts adopted a restrictive approach to standing, particularly following the decision of the Supreme Court in *Senator Abraham Adesanya v President of the Federal Republic of Nigeria*, where the requirement of sufficient interest was interpreted narrowly.¹⁹² The effect of this approach was to exclude many public-spirited individuals and organisations from seeking judicial redress in matters involving governmental accountability, constitutional compliance and the protection of collective interests.

Notwithstanding this restrictive foundation, the study found that Nigerian jurisprudence has gradually evolved towards a more liberal approach. Decisions such as *Fawehinmi v Akilu*, *Fawehinmi v President, Federal Republic of Nigeria*, and more significantly *Centre for Oil Pollution Watch v NNPC*, have expanded judicial recognition of public interest standing and have signalled a willingness on the part of the courts to prioritise substantive justice over procedural technicalities.¹⁹³ The promulgation of the Fundamental Rights (Enforcement Procedure) Rules 2009 further accelerated this development by expressly encouraging public interest litigation and broadening access to courts in fundamental rights matters.¹⁹⁴

The paper, nevertheless, established that these reforms have not entirely resolved the uncertainties surrounding standing in Nigeria. Judicial decisions remain inconsistent, with some courts continuing to apply restrictive standing principles while others embrace a more liberal and

¹⁹² *Senator Abraham Adesanya v President of the Federal Republic of Nigeria* (1981) 2 NCLR 358.

¹⁹³ *Fawehinmi v Akilu* (1987) 4 NWLR (Pt 67) 797; *Fawehinmi v President, Federal Republic of Nigeria* (2007) 14 NWLR (Pt 1054) 275; *Centre for Oil Pollution Watch v Nigerian National Petroleum Corporation* (2019) 5 NWLR (Pt 1666) 518.

¹⁹⁴ Fundamental Rights (Enforcement Procedure) Rules 2009, Preamble paras 3(e), (f) and (g).

purposive interpretation. This inconsistency undermines legal certainty and creates unpredictability for litigants seeking to vindicate public rights.¹⁹⁵

The comparative analysis undertaken in this study revealed that jurisdictions such as India, Kenya and South Africa have achieved greater success in facilitating public interest litigation because their constitutional and statutory frameworks expressly recognise broad standing rights. In India, judicial activism transformed public interest litigation into a powerful instrument for social justice and governmental accountability.¹⁹⁶ In Kenya, Articles 22 and 258 of the Constitution of Kenya 2010 constitutionally guarantee standing for persons acting in the public interest.¹⁹⁷

Similarly, section 38 of the Constitution of South Africa expressly authorises litigation by individuals and organisations acting in the public interest.¹⁹⁸ The paper further found that the United Kingdom, despite lacking an express constitutional framework for public interest litigation, has developed a flexible approach through judicial review procedures and the doctrine of sufficient interest under section 31 of the Senior Courts Act 1981.¹⁹⁹

The British experience demonstrates that even within a common law system, courts can facilitate public interest litigation through purposive interpretation of standing requirements. A central finding of this study is that access to justice constitutes an indispensable component of constitutional democracy. Public interest litigation serves not merely as a procedural mechanism for dispute resolution but as an instrument for enforcing constitutional norms, promoting governmental accountability,

¹⁹⁵ Chima Centus Nweze, 'The Dynamics of Locus Standi in Public Interest Litigation in Nigeria' in Epiphany Azinge and Bolaji Owasanoye (eds), *Justiciability and Constitutionalism: An Economic Analysis of Law* (NIALS 2010).

¹⁹⁶ *SP Gupta v Union of India* AIR 1982 SC 149; *Bandhua Mukti Morcha v Union of India* AIR 1984 SC 802; Upendra Baxi, 'Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India' (1985) 4 *Third World Legal Studies* 107.

¹⁹⁷ Constitution of Kenya 2010, arts 22 and 258.

¹⁹⁸ Constitution of the Republic of South Africa 1996, s 38.

¹⁹⁹ Senior Courts Act 1981, s 31(3); *R v Inland Revenue Commissioners, ex p National Federation of Self-Employed and Small Businesses Ltd* [1982] AC 617 (HL).

protecting vulnerable groups and strengthening democratic governance. Where restrictive standing rules prevent legitimate public interest claims from being heard, the judiciary risks becoming inaccessible to those whose interests most require protection.²⁰⁰

Consequently, this study concludes that while Nigeria has made important progress towards liberalising locus standi, the current framework remains insufficient to guarantee effective access to justice in public interest matters. Sustainable reform requires a combination of constitutional amendments, legislative intervention, judicial innovation and institutional support mechanisms designed to promote responsible public interest litigation while safeguarding the courts against abuse.²⁰¹

²⁰⁰ Mauro Cappelletti and Bryant Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective* (Sijthoff and Noordhoff 1978).

²⁰¹ Ben Nwabueze, *Constitutional Democracy in Africa* (Spectrum Books 2003).