

Liberalization of the Traditional Rule of Locus Standi in the United Kingdom and Malaysia: A Comparative Study

M. Ershadul Bari¹ and M. Ehteshamul Bari²

Abstract

The classical and restrictive rule of *locus standi*, which is inherent in all legal systems, is aimed at to limit the access of the citizen to the court of law by insisting that only a 'person aggrieved' can maintain an action seeking remedy for the violation of the public or private rights so that wasteful challenges by busybodies can be excluded and limited judicial resources are not being misused. In the United Kingdom, Lord Denning MR in a series of epoch-making decisions in *Blackburn's* cases, given mainly in the early 1970s, broadened the ambit of access to justice by evolving the concept of 'sufficient interest' in place of 'aggrieved person'. The liberalizing approach to the rule of *locus standi* was ultimately approved in 1977 in a new Order 53 of the Supreme Court Rules by stipulating a common standing test of 'sufficient interest in the matter' to which the application for judicial review relates. This neo 'sufficient interest' test has received a more progressive interpretations by the superior courts of the United Kingdom to allow access to judicial review not only to a particular applicant for himself but also to three other types of applicants claiming surrogate, associational or citizen standing from the realization that the possibility of instituting such applications challenging the illegalities of the executive or a public authority will induce the authority concerned to act with greater responsibility which will have the effect of maintaining the rule of law and furthering the cause of justice. But in the common law country of Malaysia, the liberalization issue of *locus standi*, set in motion in early 1980s in the cases of *Lim Cho Hock*, *Mohamed bin Ismail* and *Tan Sri Haji Othman Saat*, was held back by the then Supreme Court of the country in 1988 in the *UEM* case maintaining restrictive approach towards *locus standi* in public law which is in somewhat out of tune with the change taken place in this regard in other jurisdictions notably in the United Kingdom. It was not kept in mind that the liberalization of the rules of standing over the years in various jurisdictions owes essentially to the creative and innovative interpretation of the few outstanding judges. Therefore, it has been proposed that the apex court of Malaysia should reconsider its conservative stance in an appropriate case for stretching the standing rule to enable a public spirited individual acting *bona fide* to institute an action for judicial redress of a public wrong or injury so that the executive or public authority can be kept on its toes and public laws are not violated with impunity.

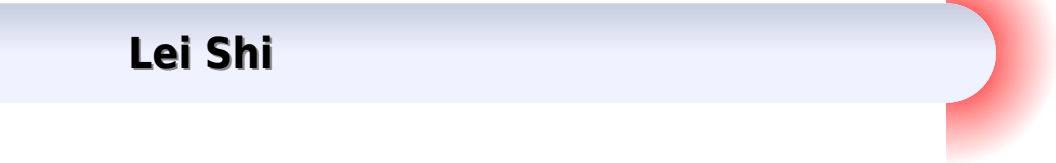
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Table of Contents Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17

1. Understanding the eBook Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - The Rise of Digital Reading Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Advantages of eBooks Over Traditional Books
2. Identifying Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - User-Friendly Interface
4. Exploring eBook Recommendations from Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Personalized Recommendations
 - Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 User Reviews and Ratings
 - Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 and Bestseller Lists
5. Accessing Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 Free and Paid eBooks

- Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 Public Domain eBooks
 - Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 eBook Subscription Services
 - Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 Budget-Friendly Options
6. Navigating Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 eBook Formats
 - ePub, PDF, MOBI, and More
 - Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 Compatibility with Devices
 - Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17 Enhanced eBook Features
 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Highlighting and Note-Taking Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Interactive Elements Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 8. Staying Engaged with Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 9. Balancing eBooks and Physical Books Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Setting Reading Goals Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Fact-Checking eBook Content of Lucius Chittendens Journey To The Inside Of The Earth Occasional Paper 17
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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