

The Application of the “Brasilia Declaration of Judges on Water Justice” (The Brasilia Declaration)

Introduction Cont'd...



Principle 1-Water as a Public Good



non-rivalry

'non-excludability

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Cont'd...



Role of the Judiciary-Locus classicus cases

- ▶ *Murang'a County Government v Murang'a South Water & Sanitation Co. Ltd & another* [2019] eKLR ,
- ▶ *Kapa Oil Refineries Limited & 7 others v Export*

Role of the Judiciary Cont'd...

! In the same case, the court addressed the issue of *control* of water as follows:
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! On the issue of privatization, the court stated as follows:

! The above decisions lend credence to the Brasilia Declaration's 1 Principle that the *State* should *control* the *water* supply.

Principle 2 - Water Justice, Land Use, and the Ecological Function of Property





Cont'd...

- ! The importance of maintaining the ecological functions and integrity of water resources and related ecosystems was emphasized in the case of *Luo Council of Elders & 8 others*



Cont'd...

- ! Water Justice, like environmental justice, entails the right to have access to environmental information, participation and involvement in decision making.
- ! In the Friends of Lake Turkana case (supra), the court stated as follows:

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