

**THE PHILIP C. JESSUP INTERNATIONAL LAW MOOT  
COURT COMPETITION**

**1975**

**The Peace River Basin Case,  
New Helois v. Karma, 1975.**

**Problem**

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,  
ADVISORY OPINIONS AND ORDERS

**THE PEACE RIVER BASIN CASE**

(NEW HELIOS *v.* KARMA)

MERITS

JUDGMENT OF 26 APRIL 1975

1975

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,  
AVIS CONSULTATIFS ET ORDONNANCES

**AFFAIRE DU BASSIN FLUVIAL  
LA PAIX**

(NEW HELIOS *v.* KARMA)

FOND

ARRÊT DU 26 AVRIL 1975

### THE 1975 JESSUP PROBLEM

Each year the focus of the Competition is upon a hypothetical case before the International Court of Justice. Drafted by Mr. Robert E. Stein, this year's Problem concerns the law of international drainage basins as well as international environmental law. It raises complex questions as to the responsibility of a State for its own activities or private activities within its jurisdiction which cause injury to the environment of a neighboring State.

A statement of the Problem follows:

The Peace River Basin consists of the Upper Peace River, International Lake, and the Lower Peace River. The Upper Peace rises in the State of Karma and is within its boundaries until it flows into the International Lake, which is 20 miles long and 10 miles wide at its broadest point. The International Lake forms the north-south boundary between Karma and the State of New Helios. The Lake empties into the Lower Peace River which then wholly enters Karma until it empties into the ocean. (See map on the next page.)

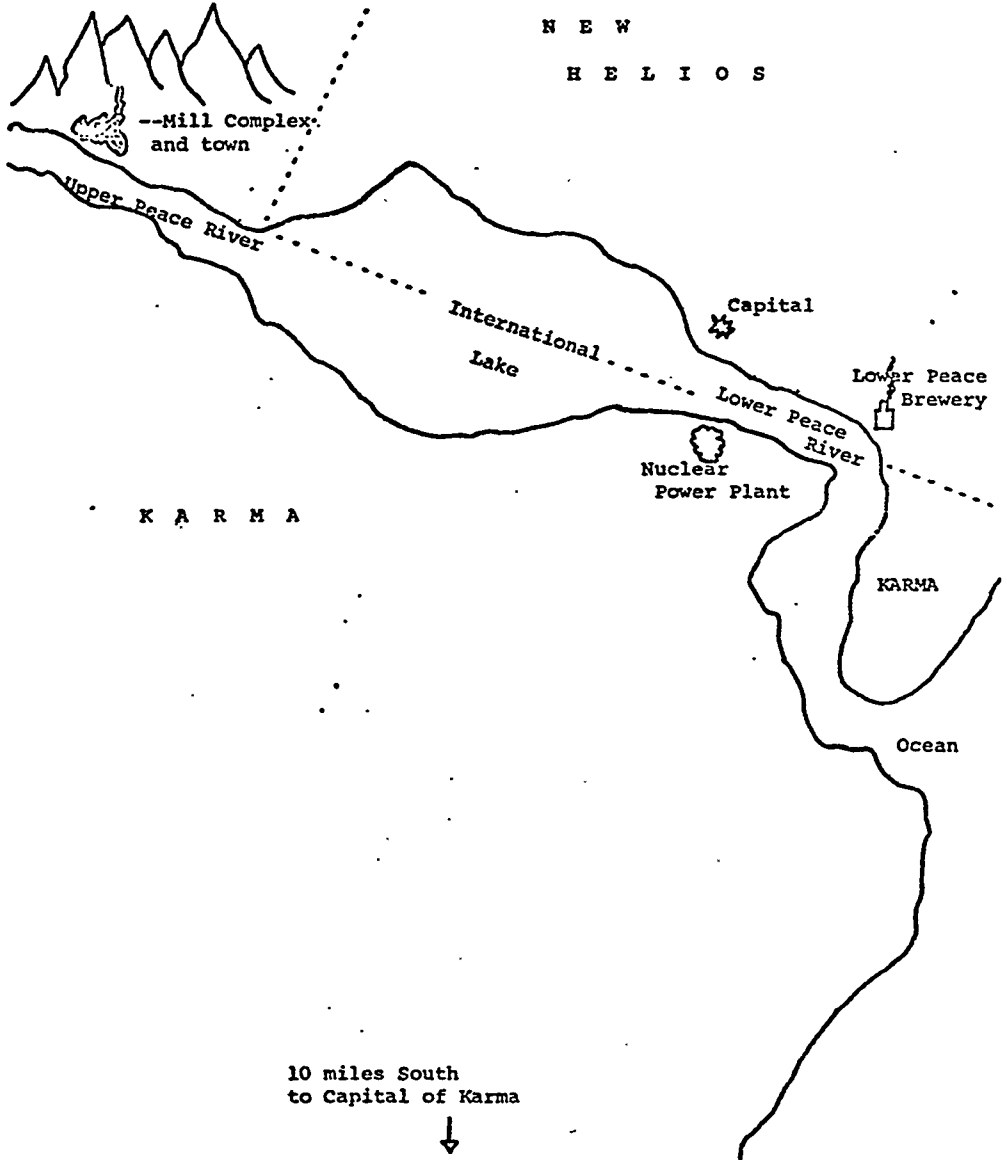
The capital of New Helios, a highly industrialized nation enjoying a high standard of living, is located on the Lower Peace side of the International Lake just before it enters the Lower Peace River. The capital of Karma is located 50 miles south of the Lake. Karma, although still relatively poor, and primarily agricultural, has experienced since 1960 rapid economic growth, much of which is attributable to the opening up of the rich mineral deposits and forest lands of its Wilderness Region, located north of the Upper Peace.

In 1923, Karma and New Helios entered into a Treaty of Amity, Friendship, and Economic Cooperation. This treaty provides that neither State shall pollute boundary waters so as to injure health or property in the other State. Other provisions include the obligations to cooperate, consult, and enter into specific arrangements as appropriate on matters of mutual interest. Karma and New Helios, both U.N. members, have enjoyed friendly relations for many years; although from time to time, disputes have developed between them.

The present dispute involves injury to New Helios resulting from the pollution of the Peace River basin by a privately-owned paper and pulp mill and a government nuclear power plant in Karma. The mill, constructed on the Upper Peace in 1965 on the advice of an intergovernmental organization, the World Development Authority (WDA), created thousands of new jobs for the previously impoverished people of the Wilderness Region. These workers and their families now live in a

ANNEX A

Wilderness Region



10 miles South  
to Capital of Karma



shanty town of some 20,000 people which surrounds the mill complex.

In spite of WDA's recommendations, the mill company has failed to construct facilities for the treatment of wastes from the mill or sewage from the town or to fulfill its promise to build modern housing for its workers, which would alleviate the sewage problem. As a result, the water quality of the Lake has been diminished to such an extent that these waters are no longer fit for human consumption. In addition, the beaches around the capital of New Helios were closed in 1970 when an increase in typhoid was reported.

Both the State of New Helios and the Lower Peace Brewery, for over thirty years one of New Helios's most successful industries relying on the waters of the basin, have already installed sophisticated purification facilities at considerable costs. If no remedial actions are taken by the mill, New Helios will be forced to expend a documented \$2,000,000 for further purification of the waters of the Lake, while the brewery may be forced to seek a new source of water, at an increased cost, to assure the quality and taste of its celebrated beers.

In 1970, without notification to New Helios, Karma began the construction of a nuclear plant at the source of the Lower Peace River to meet the growing energy demands of industrial users in its capital and the call for the development of a fertilizer production capability. The plant, with its equipment and fuel supplied by a third nation under strict international safeguards, uses as a coolant for its reactors the waters of the Lower Peace, which are then emptied back into the river. The plant opened at 10% of its total capacity in May of 1974.

As early as 1970, the citizens of New Helios protested to their government about the construction of the plant, claiming that it would ruin their recreational uses of the Lower Peace. Also objecting strenuously to the plant was the management of the Lower Peace Brewery which requires cool, clear water in producing beer. If the plant becomes fully operational, the brewery will be forced to install cooling lagoons at a documented cost of \$900,000 or to find a new supply of water.

In response, the government of New Helios has protested to Karma against the location and construction of the plant. Karma has always replied that it has the sovereign right to work for the development of its nation in any way possible.

In July, 1974, New Helios submitted a formal letter of protest demanding an end to the pollution of the Peace River

basin by the mill complex-town and the nuclear plant as contrary to the 1923 treaty and general principles of international law. Karma responded with a statement that none of the actions specified in the New Helios letter of protest constituted a violation of the 1923 Treaty and that its activities and those of its citizens are consistent with international law.

The failure to settle the dispute led to increased tensions in both States with citizens and business groups threatening and lobbying for retaliatory boycotts. Recognizing that a dangerous situation had arisen, Karma and New Helios agreed first to arbitration and then later to submit the controversy to the International Court of Justice, pursuant to Article IV of the 1923 Treaty. Both waiving the defense of the local remedies rule Karma, as Respondent, and New Helios, as Applicant, submitted to the Court the following questions:

1. Whether Karma is responsible for the harm which has been or may be inflicted upon the environment of New Helios under
  - a) the 1923 Treaty or
  - b) general principles of international law?
2. What relief, if any, should be available to New Helios?

The Court agreed to the request of Karma and New Helios that the case be heard by a three-member Chamber of Court; and such a Chamber was constituted in accordance with the statute and Rules of the Court.