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When is a place a nation?

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The election of Abkhazia's new president, Aleksandr Z. Ankvaba, has created quite a stir in the media. While Abkhazia's struggle for statehood is clearly important in the region, it also raises significant questions about statehood and self-determination around the world.

What makes an entity a state?

Two theories in international law apply to the recognition of states, but take different positions. One focuses on recognition by the international community; the other on internal criteria. The 1933 Montevideo Convention on the rights and duties of states established that to qualify as a state, an entity must have a permanent population, even if dispersed; must have a defined territory, even if there are disputes about borders; must be naturally formed (no floating islands like that planned by billionaire Peter Thiel); and must have a government and the capacity to enter into relations with other states.

Under the first theory, recognition by other states is politically valuable but not legally essential. This "declaratory" theory considers statehood a pure question of fact; recognition has no legal effect. If it looks like a state, acts like a state, it is a state. Under the so called "constitutive" theory, however, there can be no statehood without recognition by the international community.

What difference does it make if Abkhazia is recognized as a state? Of course, for Abkhazia, it makes a critical difference. Lots of benefits - and obligations - derive from statehood. If recognized, a state has access to the courts of other states; it can be a plaintiff (i.e. seek international legal redress) in international law; it can be a defendant; and it can assert sovereign immunity. Also, it can join international organizations; enter into treaties; create customary law; and engage in war or armed conflict.

A handful of countries worldwide recognize Abkhazia. Of these, the most important is Russia on which it borders, with which it trades and from where most of its tourists come. Others include Nicaragua, Venezuela, Nauru and Vanuatu, and two other not generally recognized states - South Ossetia and Transnistria. Some of these have been given massive amounts of foreign aid by Russia.

There are several dozen on-going movements for separation, independence or decentralization around the globe.

Abkhazia has a government. It has limited international relations. Its boundaries are generally recognized even if they are not seen as international borders. The Abkhaz number about 200,000 and there is a sizeable diaspora including in neighboring Turkey. It has natural resources and its economy has had a recent

Law Practice

Jury finds little harm in TCW bond feud

A superior court jury tasked with deciding a messy Wall Street dispute returned a split verdict Friday that handed both sides vindication on some claims but no clear-cut victory.

Judges and Judiciary

Chief justice rails about bill

Chief Justice Tani Cantil-Sakauye has come out swinging against legislation that would strip the Judicial Council of much of its authority over local trial courts.

Discipline

Disciplinary Actions

Here are summaries of lawyer disciplinary actions taken recently by the state Supreme Court or the Bar Court, listing attorney by name, age, city of residence and date of the court's action.

Law Practice

On the Move

Hogan Lovells LLP appointed Megan Dixon as managing partner of its San Francisco and Silicon Valley offices.

Report shows law firm business strong

A report released last week by Wells Fargo Legal Specialty Group showed an increase in revenue, net income and profits per partner in the first half of the year, but industry watchers say the growth won't hold up through the end of 2011.

U.S. Court of Appeals for the 9th Circuit 9th Circuit sends Costco case back to trial court

The 9th U.S. Circuit Court of Appeals spiked a lower court's class certification ruling in a gender bias lawsuit against Costco Wholesale Corp. on Friday, but it gave the plaintiffs a second shot by sending the case back to the trial court.

Ruling calls into question laws restricting day laborers' solicitation

A Redondo Beach ordinance banning day laborers from standing on the street to solicit work is unconstitutional, the 9th U.S. Circuit Court of Appeals held Friday.

Judges and Judiciary

New presiding judge for San Diego court

Judge Robert J. Trentacosta will become the

modest recovery. Ten years ago, the roads were impassable, the hotels non-existent, the few restaurants closed at 5:00 pm and buildings were bombed out. Now there is some commerce and outside the cities, people live relatively regular lives, raising their animals, engaging in agricultural and other work. Tourism now brings up to 1 million visitors annually.

The future of this area is unclear. The winter Olympics in Sochi Russia, right at the border of Abkhazia, will bring great attention to this beautiful place. Our state department recognizes Abkhazia as land within Georgia, whose own behavior has not been unblemished on the world stage with regard to hostilities in the region and it may lose good will - although thus far the European Union joins the United States in strong support. Unlike Palestine, South Sudan and Taiwan, there is not yet an opinion that Abkhazia is a worthy underdog, but there may well be in time.

Although an extreme case in terms of the absence of allies, amount of hostilities over the last decades, and the relative obscurity of its ethnic identities, Abkhazia's case for statehood brings into sharp focus questions that apply well beyond this region of the Caucasus - in Western Europe, in the Middle East of course, and even in North America. There are several dozen on-going movements for separation, independence or decentralization around the globe. Treating Abkhazia's case for statehood as a serious matter allows for a consideration of several issues, which most of these cases raise.

First there is the question of the importance of self-determination - a fundamental right in international law but complicated often by assertions of ethnic cleansing and disagreements about national origins. In the Abkhaz case, many ethnic Georgians were forced to leave Abkhazia and now live in Georgia. They have their own government in exile there.

Second, addressing the Abkhaz situation allows for analysis of the contemporary acceptability of recognizing the spheres of influence in international relations. Although the Abkhaz may not wish to acknowledge this, nor would Georgians and the United States, the area falls historically and realistically into Russia's sphere of influence.

Then there is the daunting concern with a domino effect. How can the world community be viable without serious restrictions on nation-splitting? Surely there must be some fundamental standards regarding when recognition should take place. Unfortunately, those standards are often treated with political, and not international, responses.

Consideration of Abkhazia's situation allows the opportunity to evaluate the advantages and disadvantages of a solution often suggested and advocated for solving problems of secession: The creation of federations, power sharing systems wherein regions (at least for certain national and international goals) have equal status.

In the Caucasus, a solution may be to recognize a federation - with equal status of Georgia and Abkhazia and perhaps other entities in the region. Under the Soviet rule, Abkhazia was an independent republic, as was Georgia. This option is extremely challenging in light of the intensely held positions among both peoples, which can extend into the history of the land. But the alternatives too are not attractive, as attention must be paid to ongoing hostilities, continued uncertainty about the futures of displaced peoples, and placing into jeopardy strategic interests ranging from oil transport to access to major transit routes over land and the seas.

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presiding judge of the San Diego Superior Court on Jan. 1.

San Francisco court announces changes

Presiding Judge Katherine Feinstein announced a number of changes Friday to compensate for 75 employees the court still expects to lay off.

Law Practice

Former L.A. official joins Greenberg

Linda Bernhardt, a land use specialist and former deputy mayor of Los Angeles, has joined Greenberg Traurig LLP in Santa Monica, the firm announced Friday.

Bar Associations

Blair urges California lawyers to take up African legal causes

Cherie Blair wants her fellow lawyers to remember the millions of people who live without the benefits of the rule of law.

Judges and Judiciary

Eastern District judge plans to take senior status

U.S. District Judge Garland E. Burrell Jr.'s plans to take senior status next year will open up a seat on the Eastern District branch.

State of the judiciary missing in action

The legislative session came to a close this year without Chief Justice Tani Cantil Sakauye giving a state of the judiciary speech to lawmakers, the first time that's happened in 15 years.

Government

Plaintiffs face restrictions in patent bill signed by President

The patent reform bill signed into law Friday by President Barack Obama includes bad news for plaintiffs claiming companies marked products with false patent numbers and for those suing large numbers of defendants.

California Supreme Court

Anti-SLAPP law protects attorney case assignment decisions

The state's anti-SLAPP law protects decisions that legal organizations make about attorney case assignments, the 4th District Court of Appeal ruled Friday.

Criminal

Lawyers concede DNA profiling case may be moot

Lawyers for defendant Jerry A. Pool advised the 9th Circuit that they now believe his appeal over the constitutionality of arrestee DNA profiling should be dismissed because the issue became moot when he pleaded guilty to a sex crime.