



Attorneys at Law

# Consortium Standards Bulletin

A ConsortiumInfo.org publication

SEPTEMBER 2006

Vol V, No. 8

## EDITOR'S NOTE

### STANDARDS AND HUMAN RIGHTS

The topic of human rights is very much in the news today, as the UN Security Council struggles with how to deal with the unfolding tragedy in Darfur, Arab states criticize Israel for its treatment of the Palestinians, the US criticizes Korea, Iran, and other governments for their treatment of their own citizens, and the same governments fault the US for its policies regarding captives taken in Afghanistan and Iraq. Each of the above governments, of course, defends its own conduct, claiming that it is in compliance with international law. And as I write these words, U.S. Senators are acrimoniously arguing over whether to grant the administration the power to define what constitutes "torture" – a debate that not long ago would have been difficult to imagine being held in the halls of Congress.

Clearly, there are problems here, not the least of which is the absence of an effective global system authorized and able to guarantee, and intervene to prevent, abuses of human rights when they occur. At times, the very goal of some day ensuring the dignity, livelihood and opportunity – or even the safety and freedom from starvation – of the billions of souls that are at risk today seems beyond any realistic hope of attainment.

Among the many issues that make this hope so challenging is one that is too often neglected, but which falls within the scope of this journal. That issue involves vitally important standards - the definitions of human rights themselves. Absent consensus on the identity and description of human rights, it is impossible to hold anyone accountable for violating them. And that is the subject of this month's **Consortium Standards Bulletin**.

In my **Editorial**, I recall that one of the principal pillars of belief upon which modern democracies were conceived in the late 18<sup>th</sup> century was "natural law," a conceptual framework under which every human being was deemed to be endowed at birth (in the words of the American Declaration of Independence) with certain "inalienable rights," among which were the rights to "Life, Liberty, and the Pursuit of Happiness."

Today, the moral conviction that every human being has inalienable – as compared to only situationally defined – rights seems to be weakening. Instead, we have rights of combatants, rights of citizens, and (some would contend) no rights at all for some souls unlucky enough to find themselves without a recognized treaty to protect them. I suggest that true progress in guaranteeing human rights can only be made if legalistic distinctions based on circumstance are discarded in favor of the Founding Fathers' profound belief in an individual's innate right to be secure in his or her basic human rights.

In this month's **Feature Article**, I survey the complex and still growing infrastructure of global and regional declarations of rights, treaties, conventions, commissions and courts that has evolved since World War II to recognize and protect human rights, and the degree to which they can be effective in addressing human rights abuses today.

My **Consider This** essay for September asks why the nations of the world have succeeded in creating a quasi-governmental entity (the World Trade Organization) that nations go to great effort to join – even at the expense of subjecting themselves to economic sanctions if found to have violated WTO rules – but have largely refused to grant equivalent power to international courts to sanction violations of human rights. Sadly, it would appear that governments are more motivated to facilitate trade, and more willing to cede a degree of their sovereignty in that pursuit, than they are confident that they will respect the human rights of their own citizens.

The **Standards Blog** selection for this month departs from the human rights theme to provide a reflection occasioned by the fifth anniversary of the 9/11 tragedy, observing that the Twin Towers did not collapse because they failed to meet applicable standards, but because the applicable standards failed to support the Towers against the forces unleashed upon them. I also reflect on the as-yet unanswered question of whether we should adapt construction and other standards specifically to meet the potential dangers of the post - 9/11 world, and whether we are willing to pay the price to mandate their implementation.

Finally, there is a **Story Update** on one of the most important standards litigation stories of recent years, involving the conduct of the participants in the JEDEC SDRAM working group in general, and of Rambus, Inc. in particular. This is a saga that I have been following since [February of 2003](#), and in which I and my law firm have participated by filing a series of *pro bono* "friend of the court" briefs in an effort to support the integrity of the standards development process.

As always, I hope you enjoy this issue.

Andrew Updegrave  
Editor and Publisher  
2005 ANSI President's  
Award for Journalism

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