

**C.V. Starr Lecture**  
**Bringing Human Rights Home:**  
**International Human Rights Principles and Women's Rights in the United States**  
**November 10, 2004**

On November 10, 2004, the President of Legal Momentum spoke about the increasing use of international law and international human rights principles to advance women's rights in the United States. Legal Momentum – which is the new name of NOW Legal Defense and Education Fund – is the oldest and largest civil rights organization committed to achieving women's equality.

During her C.V. Starr lecture organized by the Law School's Center for International Law, Kathy Rodgers said that although the U.S. has long been seen as a leader in developing women's rights and civil rights, women still faced significant economic, political, and social barriers. For example, she noted that women made up less than two percent of all the CEOs in the list of Fortune 500 companies, comprised 90 percent of all adults on welfare, were 40 percent more likely than men to be poor, and earned 76 cents for every dollar earned by men for performing similar work. Rodgers put some of the blame for this current situation on "stereotypes, structural barriers, and good old-fashioned discrimination" and added that the U.S. has "a lot of work still to do."

Rodgers said that despite advances made by the women's rights movements in recent decades, they have been bumping up against the constraints of the domestic legal system. She said, for example, that "we still don't have an explicit guarantee of equality for women in our national Constitution. It is virtually silent on economic and social justice, and that is what is at the heart of women's equality." She also mentioned that while post-World War II constitutions around the world routinely recognized women's equality as a founding premise, "American women still find having to justify themselves." And citing recent court decisions and public sentiment going against affirmative action and reproductive rights, Rodgers warned that "without explicit guarantees of equality, what constitutional protections for women that have evolved recently are now subject to reinterpretation and reversal."

Because of these constraints, she said that both legal advocates and grassroots activists were increasingly looking outward to international human rights treaties and principles – such as the Declaration of Human Rights adopted by the United Nations and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – to provide new tools to advance women's rights in the U.S. She noted that these treaties "explicitly recognize women as equal to men, and that they demand that governments take positive steps to achieve human rights." But while the U.S. did vote in favor of adopting the Declaration of Human Rights, Rodgers said that the U.S. has still not ratified CEDAW, which entered into force for its signatory nations in 1981.

Rodgers said that there are signs of growing interest among members of the judiciary, including those in the U.S. Supreme Court, over the relevance and uses of international human rights law in interpreting American law. Rodgers spoke in length about recent decisions where the Supreme Court has referred to international and foreign law as "persuasive authority relevant to the interpretation of our Constitution and laws." For example, in the death penalty case of *Atkins v. Virginia* in 2002, the court majority noted an international consensus among other nations in deciding that the execution of the mentally-retarded was considered cruel and unusual punishment. In a widely-publicized decision in 2003 concerning affirmative action (*Grutter v. Bollinger et al.*), Rodgers said that the majority decision upheld the admissions policy for a

particular law school, in part, by citing CEDAW. In another 2003 landmark decision which found unconstitutional a Texas statute that criminalized same-sex sodomy (*Lawrence et al. v. Texas*), Rodgers noted that the majority opinion pointed to cases from the European Court of Human Rights, and that it was the first time that the Supreme Court had cited decisions from this particular court.

Although there are still significant obstacles facing the women's rights movements, Rodgers said that Legal Momentum will continue to press for the use of international law in interpreting American jurisprudence. That organization recently started a new educational initiative called "Beyond Borders: The Impact of International Law in State and Federal Courts" whose advisors include Supreme Court justices Breyer, Ginsburg, and O'Connor. In commenting on this initiative, Justice O'Connor recently said, "The efforts we spend educating law students, lawyers, and judges about international law are efforts well spent. Understanding international law is no longer just a legal specialty. It is becoming a duty."