

On October 5, 2011 the Cincinnati City Council enacted a resolution declaring that freedom from domestic violence is a fundamental human right and that it is a responsibility of state and local governments to secure this human right on behalf of its citizens. The Resolution is available at http://city-egov.cincinnati-oh.gov/Webtop/ws/council/public/child/Blob/33497.pdf;jsessionid=29F32575A142D399B4BDDAA85FC5FBB7?rpp=-10&m=2&w=doc_no%3D'201101139 The supporting memorandum for the memorandum follows.

To be Free from Domestic Violence is a Fundamental Human Right

By: Jennifer Cunningham-Minnick, Nick Maull, & Josh LeFevre

Law Students at The University of Cincinnati College of Law

Introduction

Domestic violence affects families in Cincinnati, the United States, and across the world, shaking the very fabric of society. According to the Domestic Violence Resource Center, one in four women experiences domestic violence within their lifetimes.¹ Three women and one man are murdered by their partners every day, costing the United States more than \$5.8 Billion each year.² Local laws, and the police officers who enforce them, are the primary line of defense against domestic violence.³ World leaders and leaders within the United States recognize domestic violence as a human rights issue.⁴ The City of Cincinnati should join these leaders across the world by adopting a resolution declaring domestic violence as a human rights issue. Recognition that freedom from domestic violence is a fundamental human rights issue will protect families by placing freedom from violence within the home in the public eye. Men, women and children should not fear for their safety in their own homes.

“Human Rights” Defined

The Universal Declaration of Human Rights (“the Declaration”) recognizes the “inherent dignity,” and “equal and inalienable rights,” of all members of the human family as the foundation of “freedom, justice and peace in the world.”⁵ The Declaration defines

“human rights” by stating that “[n]o one shall be subject to ... cruel, inhuman or degrading treatment or punishment,” and that everyone has a right to an “effective remedy by the competent international tribunals for acts violating the fundamental rights granted him by the constitution or by law.”⁶ In addition to this definition, the position of the United Nations is that each state has a duty to exercise due diligence to ensure the upholding of the Universal Declaration of Human Rights.⁷

Domestic Violence as a Human Rights Issue

Domestic violence frequently involves cruel and degrading treatment, including, “physical violence such as wife battering, sexual abuse, torture, spouse abuse,” as well as “psychological and emotional abuse such as denial of recognition, use of derogatory language, emotional damage, and neglect,” such as “denial of food” and “denial of financial access.”⁸ Applying the definition of “human rights” from the Universal Declaration of Human Rights, it becomes clear that these actions constitute “cruel, inhuman or degrading treatment.” If the consequences of domestic violence do not fall under the definition of “human rights,” then the protections afforded by the Universal Declaration of Human Rights are meaningless.

The United Nations also recognized domestic violence as a human rights issue through the Declaration on the Elimination of Violence against Women, because domestic violence is typically “gender-based abuse.”⁹ Gender-based abuse is “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”¹⁰

Specifically, the Declaration on the Elimination of Violence against Women notes that “[p]hysical, sexual and psychological violence that occurs in the family, including

battering; sexual abuse of female children in the household; dowry-related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; and violence related to exploitation.”¹¹ The United Nations Commission for Human Rights condemned violence and human rights violations against women on March 3, 1993.¹² Since that time, a number of countries have criminalized violence against women.¹³

Besides the fact that domestic violence easily fits into the definition of a human rights issue, there are other compelling reasons for the City to recognize domestic violence as a human right. It is well known that many acts of domestic violence occur in the most protected space in our society, the home. By recognizing domestic violence as a human rights issue, City Council is taking this shameful, isolating act and thrusting it into the public sphere. By thrusting domestic violence on such a public stage as a City Council resolution, the City will not only take a stand against domestic violence but will also communicate to survivors that they are not alone.

Recommendation

Our position does not seek to change any currently existing legislation, law or statute. Nor does it seek to change the State’s job of enforcing legislation. We simply ask that Ohio generate a new perspective on domestic violence. Domestic violence is more than an issue of assault and battery, impinging on human rights. This position seeks to create a spark to enhance domestic violence education in communities, public and private sectors, and in government agencies.

We recommend that Cincinnati City Council adopt a resolution recognizing that freedom from domestic violence is a fundamental human right. By adopting this resolution, the City of Cincinnati City Council will be one of the first Council in the nation to recognize

domestic violence as a fundamental human right. Our goal is to create awareness that domestic violence is a human rights issue, and to establish educational programs for police departments, judges, attorneys, and other private and public sector agencies. This education would involve psychological aspects, patterns and warning signs of domestic violence, with an emphasis on the psychological and physiological effects of domestic violence. Our goal is also to inform survivors of the resources and support that is available to them in the City of Cincinnati. To end the epidemic of domestic violence in our community it is essential the City of Cincinnati Council adopt this resolution declaring domestic violence a human rights issue.

¹ Domestic Violence Resource Center, "Domestic Violence Statistics," *available at* <http://www.dvrc-or.org/domestic/violence/resources/C61/#hom>, accessed March 4, 2011.

² *Id.*

³ *See, e.g.*, Ohio Form 10.01-G, "Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.26, 2919.27 and 3113.31. If you have reasonable grounds to believe that Respondent/Defendant has violated this protection Order, it is the preferred course of action in Ohio under R.C. 2935.03 to arrest and detain Respondent/Defendant until a warrant can be obtained."

⁴ United Nations General Assembly, "Declaration on the Elimination of Violence against Women," December 20, 1993, *available at* <http://www.un.org/documents/ga/res/48/a48r104.htm>; Committee on the Elimination of Violence against Women, Eleventh Session, General Recommendation 19, Official Records of the General Assembly, Forty-seventh Session, Supplement No. 38 (A/47/38), Ch. 1

⁵ United Nations General Assembly, "Universal Declaration of Human Rights," December 10, 1948, *available at* <http://www.un.org/en/documents/udhr/index.shtml>, accessed March 4, 2011.

⁶ *Id.*

⁷ United Nations, "Declaration on the Elimination of Violence against Women," December 20, 1993.

⁸ Ramesh, Abhinaya (Summarized by Janice Duddy), *Why is Domestic Violence a Human Rights Concern?*, December 2, 2008, Association for Women's Rights in

Development, <http://www.awid.org/eng/Issues-and-Analysis/Library/Why-is-domestic-violence-a-human-rights-concern>.

⁹ United Nations, “Human Rights: Women and Violence,” available at <http://www.un.org/rights/dpi1772e.htm>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*