

Law & Legal Affairs



Men are just as likely to be victims of domestic violence, research in the US has found, but the issue is hugely under-reported

Picture (posed by models): Action Press/Rex

Men can be victims, too

A court ruling in California has highlighted evidence that shows it is not just women who suffer domestic violence, writes John Forsyth

REFUSING to provide domestic violence programmes for male victims because of gender-based analysis is against the US constitution, a Californian court has ruled.

The decision in the case of *Woods v Shewry* is the highest-level judicial rejection of the concept as a basis for discriminating between men and women who suffer domestic abuse.

Gender-based analysis is also the model on which funding is provided for support for victims in Scotland.

The California case was filed in 2005 by four male victims of domestic violence and the daughter of one of the men against the state of California and various agencies and state-funded domestic violence service providers.

The Sacramento Superior Court initially dismissed the case, ruling that men are not entitled to equal protection on domestic violence, because statistically they are not "similarly situated" with women. On an arithmetical basis, more women than men suffer domestic abuse and that was found to justify exemption from the overall requirement of state legislation not to be discriminatory.

That decision was appealed by an attorney,

Marc Angelucci, who presented evidence last month showing that not only is the arithmetic ideologically skewed, but also that all victims are entitled to equal protection under the law.

On 14 October, judges in Sacramento's Court of Appeal reversed the decision and held that: "State funding of domestic violence programmes that offer services only to women and their children, but not to men, violate equal protection."

The leading plaintiff in the case was David Woods and his daughter, Maegan. Woods and his wife, Ruth, were married in 1981. Since the mid-1980s, David was attacked violently on numerous occasions by his wife. Maegan was also subject to violence and was present on many occasions when her father, who is disabled, was attacked.

On several occasions Wood contacted a Sacramento domestic violence agency called Women Escaping a Violence Environment (Weave), but was always told: "We don't help men." In February 2003, Maegan called Weave herself and insisted they help her father. According to Maegan, Weave said they do not help men, and that men are the perpetrators of domestic violence, not the victims.

The Appeal Court heard evidence from a number of experts, including Dr Richard Gelles, whose groundbreaking work on domestic violence in the 1970s was instrumental in bringing the issue of violence against women to public consciousness. His recent research explains that current policies often trap abused fathers – they can't leave their wives because this would leave their children unprotected in the hands of an abuser, but if they simply take their children away with no recognised refuge to go to, they are liable to be arrested for kidnapping.

Angelucci also submitted a series of expert reports and research findings that were not challenged by the Attorney General's Office. The evidence asserted that virtually all sociological survey data confirms women initiate domestic violence as often as men and men sustain about one-third of the injuries. It also found that crime data alone is unreliable, because it is known that men under-report more than women.

The three Appeal Court judges were unanimous in their finding in favour of Mr Woods and the other plaintiffs, stating: "Male victims of domestic violence are similarly situated to female victims for purposes of the statutory programmes and no compelling state interest justifies the gender classification."

They added that, in any case, the analy-

sis "improperly views equal protection rights as group rights, rather than individual rights, and permits discrimination simply because fewer men than women are affected."

Finally, the court cited previous findings that: "Arguing that a group of people [here male victims] is too small in number to be afforded equal protection is simply arguing that the right to equal protection should hinge on 'administrative convenience'. Administrative convenience is an inadequate state interest under a strict scrutiny analysis."

Angelucci said: "For all the good work that has been done for women victims of domestic abuse, the ideology [from gender-based analysis] has seriously overreached itself by denying the reality of the experience of hundreds of thousands of men."

Professor Jim Murdoch, of Glasgow University, said he was unaware of similar legal challenges to the provision of domestic abuse services at UK or Scottish level: "There is the 1979 United Nations Convention on the Ending of All Forms of Discrimination Against Women that defines domestic violence in gender terms. "But, on the other hand, the European Convention on Human Rights is gender-neutral in protecting us against violence or inhuman or degrading treatment as an entitlement we all have as individuals."

Legal Update

PEOPLE

■ CORE Solutions Group has announced the appointment of Calum MacNeill, QC, and Charlie Woods, the former director of strategy at Scottish Enterprise.

■ CATH Karlin of HBJ Gateley Wareing has been appointed to the board of the International Academy of Collaborative Professionals. She is the only Scottish lawyer on the executive of the group, which promotes collaboration as a way of resolving disputes.

■ JOHN Hardie, a senior associate at Tods Murray, has become the first solicitor in Scotland to achieve dual specialist accreditation in both planning and environmental law from the Law Society of Scotland.

NEWS

■ THE Law Society of Scotland will on Friday publish its proposals on changing the way solicitors are trained. The document will include seven policy suggestions which will be subject to consultation until 6 February, 2009.

■ TODS Murray recently presented a cheque for £110,000 to Capability Scotland – raised by the efforts of its staff on its Ben Nevis Challenge event.

EVENTS

■ SHEPHERD + Wedderburn is the sponsor of an art exhibition run by Cancer Research UK Scotland in Edinburgh this week. Held in Adam House in Chambers Street, the event will see more than 1,400 paintings on display.

■ REORGANISATIONS and redundancy are the topics to be discussed at seminars run by MacRoberts in Edinburgh in Glasgow tomorrow and Wednesday. For further information, visit www.macroberts.com.

■ AXIOM Advocates' *Third Thursday* lectures continue this week with a talk on EU law in the Scottish Courts. For further information, contact scott.gray@axiomadvocates.com.

■ THE Arnot Manderson stable of advocates is hosting a seminar on various topics in Inverness on 24 November. Adoption law, the Harassment Act and Crown disclosure in criminal cases are on the agenda at the event in the Waterside Hotel. For further information, contact andrewsutherland@arnotmanderson.co.uk.