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WILKINSON v KITZINGER

PRESS BRIEFING NOTE

Liberty is acting on behalf of Sue Wilkinson (supported by Celia Kitzinger) in her petition to have her marriage to Celia declared valid in the UK. Sue is an academic psychologist, and holds the posts of Professor of Feminist and Health Studies, and Director of Social Psychology, at Loughborough University. Celia is a Professor at the Sociology Department at the University of York. Sue and Celia married in Vancouver, British Columbia, Canada, on 26 August 2003. Sue was living and working in Canada at the time, and British Columbia had recently extended the right to marry to same-sex couples.

British Columbia was one of the first places in the world to allow not only same-sex citizens, but also non-citizens such as Celia and Sue, to marry (Ontario, Canada was the first, a few months earlier). In June 2005 the Canadian Parliament approved a Bill to legalise same sex marriage throughout the whole of Canada. In Europe, the Netherlands (2001), Belgium (2003) and Spain (2005) have opened up marriage to same-sex couples.

Celia and Sue decided to marry for a number of reasons. They had already been a couple for 13 years. They loved each other and wanted to make a formal lifelong commitment to one another. They found themselves in a country in which marriage was opened up to them in the same way as to heterosexual couples. On a practical level, their marriage also provided a solution to many of the problems of sustaining a relationship across international boundaries (immigration, healthcare provision, wills, power of attorney, and so on), as Celia was still living and working in England. In the absence of any other protection in the UK at the time, Celia and Sue had had to put in place a number of piecemeal legal arrangements to protect, as far as possible, their relationship with each other. Without marriage, they faced the prospect of doing so all over again in Canada. Marriage automatically granted them a range of legal and financial protections.

The UK Civil Partnership Act 2004 ("CPA"), which came into force on 5 December 2005, allows same-sex couples most of the rights and responsibilities of marriage, as "civil partners". Despite having entered into a marriage in Canada on 26 August 2003, the UK government automatically deemed Sue and Celia's marriage to be a civil partnership as from 5 December 2005 (section 215, CPA 2004). Whilst civil partnerships are an important step forward they are expressly a different institution from marriage. They are restricted to same-sex couples only, while marriage is reserved for heterosexual couples only. Their rules of formation are different (a marriage is formed by the exchange of vows, a civil partnership by signing a register). These differences maintain a separation between lesbians and gay men and the rest of society. Sue and Celia see this discrimination as demeaning and unjust: it is not equality.

In addition, Celia and Sue are already legally married in Canada, and wish their marriage to be recognised in the UK in the same way as any heterosexual couple who married abroad would have their marriage recognised. They contend that not affording their marriage the same recognition as that of a heterosexual couple is both unjustifiable and inherently discriminatory.

In order for an overseas marriage to be recognised in the UK, it must be shown that the marriage was a legal one, recognised by the country in which the marriage was executed, and that nothing in the country's law restricted either party's freedom to marry. Celia and Sue will argue that their marriage fulfills these requirements.

Celia and Sue are seeking a declaration that their marriage is valid under section 55 of the Family Law Act 1986. They will argue that any failure to recognise the validity of their marriage constitutes a breach of their rights under Articles 8 (right to respect for private and family life), 12 (right to marry) and 14 (prohibition of discrimination) (taken together with Article 8 and/or 12) of the European Convention on Human Rights (as incorporated into UK domestic law by the Human Rights Act 1998).

Although the case calls for the government's recognition of Sue and Celia's valid overseas marriage, it has far-reaching implications for lesbian and gay equality and human rights more generally across Europe.

Sue and Celia have received support for their case from individuals and organisations.

Michael Cashman, Member of the European Parliament for the West Midlands says:

"I give my support to this call for recognition of this same sex marriage. It makes no sense if we erect borders to equality, indeed mutual recognition is vital if we are to ensure the free movement of people without discrimination".

Claire Rayner says:

"I strongly support Celia Kitzinger and Sue Wilkinson in their efforts to bring this country into the twenty-first century. We've already got a civil partnership law; to argue over what is really a semantic point - that is, balking at the word 'marriage' - is really absurd. We want true equality for gay people and this would be an important step towards it."

Legal Procedure Timeline

- **6 to 9 June 2006** – Final hearing - Family Division of the High Court, Royal Courts of Justice, Strand, London WC2A 2LL.

Contact Liberty press office on 020 7378 3656

OTHERS WILLING TO TALK TO THE MEDIA

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