

Legal Rights of Transgenders and their Partners in Thailand

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Life is often stranger than fiction, or at least as interesting and amusing. True love: Statistics show that we have less than a fifty-fifty chance of finding that happily ever after scenario we so often heard about as children. Take, for example, the case of William James Brown, a forty-seven year old Irishman, who, while one day riding his motorbike through the sunny environs of Pattaya, crashed. Brown was given assistance by Pichaya, a post-operative “katoey” (transgendered) from Nakhon Phanom. Brown was impressed by Pichaya’s offer of aid and the two fell in love.

Some time later Brown popped the question and Pichaya said yes. The couple was married some time later in a football stadium with 1600 of their closest friends in attendance. It was reported that in addition to the usual exchange of marital vows, Brown paid a dowry of some 2.8 million baht. It was further reported that after the marriage, the happy couple had planned to open a restaurant and a beauty salon. And so it appears that, at least for Mr. and Mrs. Brown, they have attained the happily ever after dream.

Do transgender Thais’ partners have rights?

But today’s world is not a fairy tale and certain jurists had to ask, “What rights do the partners of transgenders have in Thailand?” The cold hard truth is that they have very few. There are at least two laws that bear on that very issue. First, Thai law does not permit transgendered individuals to change their gender status after their surgical therapy. Thus, regardless of how feminine, charming and beautiful he has become, under Thai law, he is still a man. Second, Thai law does not recognize same-sex marriages. Therefore, in the eyes of the law, they cannot enjoy the legal benefits of marriage which normally benefit both parties. The question then follows: what relationship status do they have? And the answer to that is that they enjoy the same legal status of all other couples who live together outside of matrimony.

If Mr. Brown intends to remain in Thailand with his love, then he must do as all other foreigners living in Thailand must do: Find a way to stay. It is safe to say that Mr. Brown could probably most easily apply for a retirement visa once he reaches his fiftieth birthday and can fulfill the financial requirements. Mr. Brown has three years to go.

He could, as many do, get a job teaching English, as he is a native speaker, although those who have heard an Irish brogue might take issue with that fact. If he could find employment for three years, he could then apply for and get his retirement visa. Other options are open as well. Since it is their plan to go into business together, Mr. Brown might be able to get a visa based upon the fact that he intends to start up and manage a business here. There are financial requirements, however, as well as the fact that, as a foreigner, he can register a company in Thailand, but legally own only 49 percent of a business.

Thailand, for all its reputation as a fun in the sun travel destination, is a remarkably conservative country. Gays and transgendered individuals living in Thailand report that their families and friends are tolerant of their lifestyles. Nearly every family has an aunt, cousin or even sibling who is lesbian, gay, bisexual, or transgendered (LGBT). Thailand's 95 percent Buddhist population, however, while seemingly tolerant, has very strong views on the topic of gay marriage. Nearly 70 percent of Thais are opposed to gay marriage.

Since the turn of the century, definite progress has been made in support of LGBT Thais. Homosexuality is no longer considered a mental disorder. Moreover, the 2007 Constitution, as currently written, states that 'The Thai people, irrespective of their origins, sexes or religions, shall enjoy equal protection under this Constitution' (Section 5) and 'Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, disability, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted' (Section 30).

Well, it's not the universal declaration of equality many had hoped for, but it's a step in the right direction. Mr. and Mrs. Brown are lucky: They live in a reasonably tolerant society where they can enjoy the company of one another and set out upon building a life together. The social tide is turning, albeit slowly. Perhaps one day soon Mr. and Mrs. Brown will be legally accorded the status of 'married couple' with all the rights and privileges that accompany it.

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