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My Side of the Story

Becoming Australia's First Legally-Binding Same-Sex Married Couple

by Fiona Power

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We both firmly believe that married transsexual women should not have to choose between their spouses and having their gender recognised.

I met Grace at the Black Market nightclub in the Summer of 2000. I was instantly attracted to her. She was pretty (even in her boy drag), funny and clever. I picked up on her feminine energy straight away and it didn't take me long to realise that she was M.T.F. I define myself as lesbian with a twist of bi, so the fact that she was transsexual wasn't really an issue for me. I had a close friend who had transitioned and undergone S.R.S., so I was reasonably *au fait* with the issues involved in having a trans partner.

We knew that it would not be easy, because the [Howard] Government is so bigoted towards transpeople and same-sex couples.

One thing led to another and Grace and I became lovers and moved in together in early 2001. Grace transitioned shortly after this, and as our relationship deepened, we realised that one of our main goals as a couple was to save up to travel to Thailand so that Grace could have S.R.S.

We did our homework and decided that Dr. Sanguan was the right surgeon for Grace, and we started our savings plan!

In 2005, with the surgery booked for October, we decided to get married. There were several different reasons behind this decision. We loved each other and wanted to spend the rest of our lives together.

We felt we had the right to be married if we chose, even though we both identified as women, and we were happy to exploit the loophole in the law that allowed us to marry legally. We also recognised that some of the legal rights enjoyed by married people were really important to a couple going overseas for surgery.

If anything happened on the trip, or during the surgery, it was really important that I should be Grace's legal next of kin. As her partner, I needed to be able to make any medical decisions for her if there were any complications.

As her legal wife, I would be able to do that. We were also aware that because she was travelling on a female interim passport, but prior to surgery would still have male genitalia, if we encountered any problems with paranoid immigration officers, I would be able to advocate for her and obtain legal advice on her behalf.

So for all these very good reasons, we married, in a civil ceremony at the Registry Office in Sydney. We made the decision to have a small private ceremony, because we intended to wait to have a big formal wedding and party, until other same sex couples had the same right to marry.

In October 2005, we travelled to Phuket and Grace underwent S.R.S. Mercifully, we didn't encounter any problems with customs and immigration. And Grace came through the surgery with flying colours.

We returned to Australia in November 2005. The problems began when Grace approached the Passport Office to swap over her interim female passport for a ten-year passport.

The Passport Office not only refused to provide her with a new passport, on the grounds that she was married, but also illegally destroyed her still valid interim passport.

This meant that Grace was without travel documents of any kind.

This was a huge problem for us as a couple as we had planned several overseas trips for 2006.

We were planning to return to Thailand for Grace to undergo breast augmentation surgery, and also to support our good friend Anna during her scheduled S.R.S. procedure.

We had also planned an extensive working holiday together around Europe.

The cancellation of these plans caused a lot of distress and inconvenience for both of us.

We decided to fight the Government's decision to deny Grace a passport on the grounds of her marital status. We both firmly believe that married transsexual women should not have to choose between their spouses and having their gender recognised. We loved each other and wished to remain married, and we wanted Grace to be able to enjoy the same rights as other Australian citizens to travel safely on a passport which reflected her correct gender and we also wanted to strike a blow for other same sex couples.

If we could create an anomaly in the law, by becoming a legally recognised same-sex couple, then hopefully other same-sex couples would be able to use this anomaly to fight the laws which unfairly deny them the right to marry, and all the benefits which go with marriage. We knew that it would not be easy, because the current Government is so bigoted towards transpeople and same-sex couples.

We also knew that it would mean exposing ourselves to media interest and having our private lives in the public domain.

For Grace it would mean continuing to be out and active as a transperson. For both of us it would mean potentially opening ourselves up to homophobia and transphobia but we both believed it was a cause worth fighting for.

With the assistance of the Inner City Legal Centre, and Barrister David Shoebridge, (who did marvellous pro bono work for us) we took on the Passport Office and Minister Downer.

If you have read Grace's half of the article you will know that the legal battle to obtain her rightful female passport has taken two years. Those two years have taken their toll on us as a couple. I have had to travel on several occasions knowing that Grace couldn't come with me.

We have been unable to travel to support friends undergoing S.R.S. in other countries.

But it has been worth it! Grace has finally obtained an order from the Administrative Appeals Tribunal ordering the Passport Office to issue her with a female passport!

I would strongly urge other married couples (where one partner has undergone S.R.S.) to fight for their right for a passport in their proper gender. This discrimination has got to stop.

Administrative Appeals Tribunal Confirms Australia's First Same-Sex Marriage

Media Release: Wednesday 3rd October 2007

From the Australian Marriage Equality Website:  Australian Marriage Equality has welcomed a decision on Friday by the Administrative Appeals Tribunal effectively confirming Australia's first legal same-sex marriage.

The decision is enormously significant. It means that for the first time the marriage of two women is recognised under Australian law.

Grace Abrams, a post-operative transgendered woman, was refused a female passport by the Department of Foreign Affairs and Trade because she had married her partner of five years, Fiona Power, in 2005 prior to undertaking gender reassignment surgery.

After the surgery, Abrams applied to the N.S.W. Registry of Births, Deaths and Marriages to register the change of sex. A female birth certificate was refused solely on the basis that she was married.

When applying for an Australian passport, Abrams was told she could be issued with a passport in the male gender only. She was later informed she could not be issued with a valid passport in the female gender because she could not provide a female birth certificate.

Administrative Appeals Tribunal Deputy President, the Hon R.N.J. Purvis, A.M. Q.C. ruled that the refusal of a passport by the Minister for Foreign Affairs and Trade on the basis that Abrams could not provide an amended birth certificate was unlawful under the Australian Passports Act 2005.

All Australian citizens are entitled to a passport if they can prove their identity and citizenship.

References by lawyers acting for the government to the 2004 amendments to the *Marriage Act 1961 (Australia)* were also ruled to be irrelevant.

The decision confirms the patently absurd situation that a same-sex marriage can be recognised in Australia only after one of the parties to that marriage has undergone gender reassignment surgery.

Congratulations to Grace and Fiona!

Grace is especially keen for others in the same situation to now apply for Australian passports (or other official documents) in their correct gender, in the knowledge that their marriage can no longer be a barrier.

[View the full text of the ruling](#) 

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