

# FOREIGN AFFAIRS

## Same-sex binational couples face tighter immigration policies by Lisa Bradshaw

*Editor's note: Because of the precarious situation in which these subjects find themselves, their names have been changed and certain identifying information withheld.*

**W**hen foreign same-sex partners of U.S. citizens enter this country knowing full well their intention is to relocate and stay with their partners, they are breaking the law. Unlike married couples, same-sex binational couples have no rights of immigration based on relationship.

It is illegal for foreigners entering the United States to intend to stay longer than the length of their visas. If the Immigration and Naturalization Service officials at the airport suspect that you are entering for any cause other than your legal visa allows or that you plan to overstay for any reason, they have the right to send you back on the next plane and bar you from reentry for up to 10 years.

Performance artist Tim Miller graced Portland last year with his one-man show about discrimination against gay men and lesbians in immigration. His partner of seven years is Australian and lives with him in California.

However, the couple faced an agonizing separation at a U.S. airport a few years ago, complete with a Miller tirade against immigration officials insisting the government does not have the right to deny him his partner. "The only ethical choice," he says, "is to no longer give the illusion that there are civil liberties in the U.S. for gay people."

Things have gotten a whole lot more complicated for Miller and tens of thousands of other couples since Sept. 11.

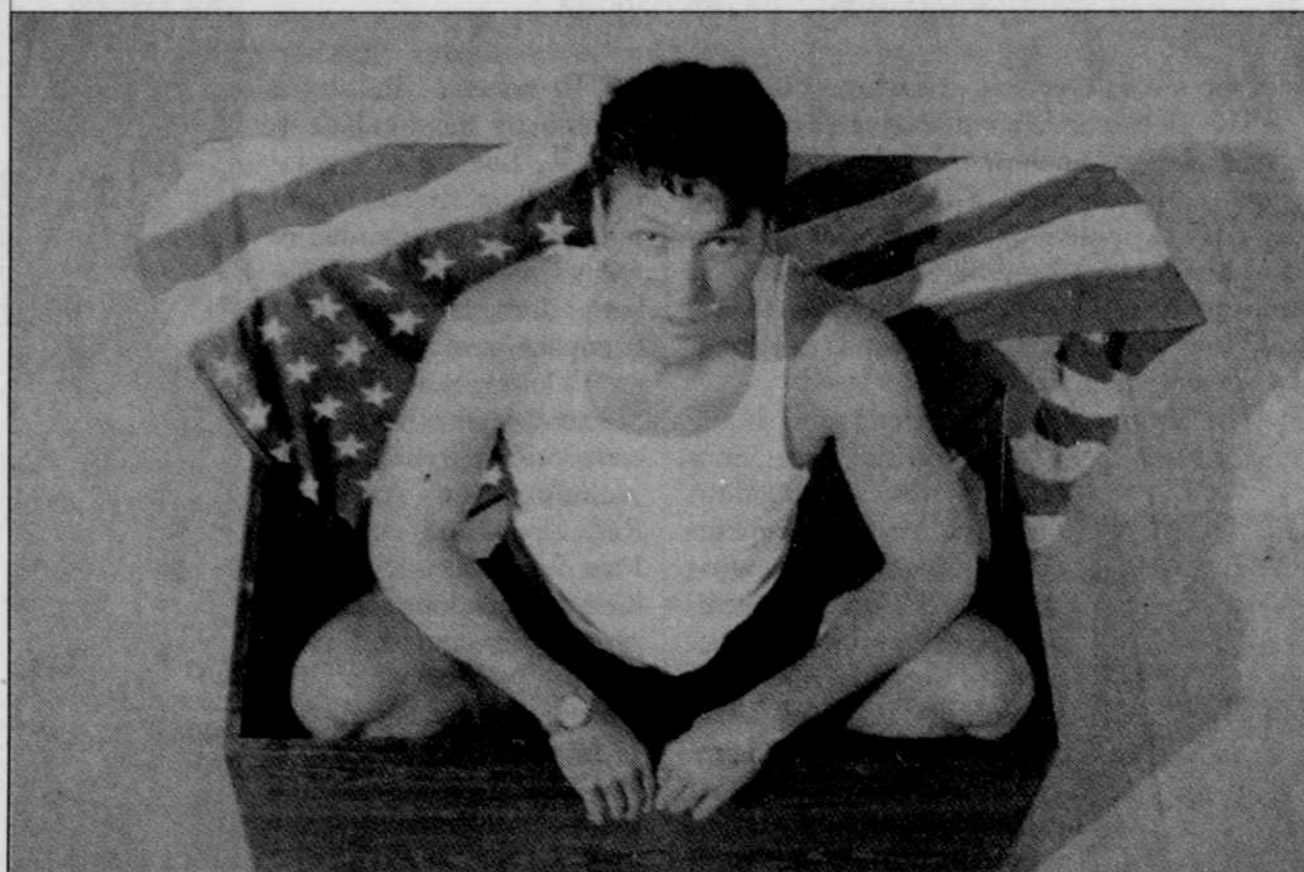
The Permanent Partners Immigration Act, sponsored by the New York-based Lesbian and Gay Immigration Rights Task Force, was reintroduced to Congress last February after sitting in committee for a year. Passage of the legislation would be a solid solution for same-sex binational couples.

The act simply would replace all references to "spouse" in immigration law with "permanent partner," thereby allowing gay couples to enjoy the same rights as married couples—the right to sponsor one's partner to live in the United States permanently and obtain a green card. A total of 14 other countries grant immigration rights to same-sex couples.

Hopes had been running high for the Permanent Partners Immigration Act amid LGIRTF chapters across the country. Now it seems all but impossible.

"Nearly all immigration laws which were pending on Sept. 11 are now on hold," says immigration lawyer Steve Kay, a member of the Portland LGIRTF chapter.

In fact, because several of the hijackers entered the United States on student visas, strict legislation has been introduced to tighten immigration policies, including possibly barring people from obtaining student visas who are from terrorist-supported states. Regardless of what legislation passes, Kay explains, "The backlog resulting from Sept. 11—and the extra scrutiny all applications are now being subjected to—has meant the processing times have increased dramatically."



Performance artist Tim Miller explored the struggle for lesbian and gay immigration rights in *Glory Box*

Francisco, an immigrant from Central America, and his partner, Jonathan, settled in Portland two years ago after meeting at graduate school in Arizona in 1996. "He invited me over to his house for spaghetti," Francisco says, "and I never moved out."

Both men have law degrees, which have helped them immensely in maneuvering the twists and turns of U.S. immigration policies. Francisco entered the country on a student visa, which expired when he completed his degree.

His partnership with Jonathan having no bearing on his U.S. residency, he was forced to find an employer to sponsor him for a work-related visa. Because of his education, he was eligible for the coveted H1B visa, which allows a three-year stay, providing the college degree is put to use with an employer willing to complete the daunting INS paperwork and pay the filing fees.

Francisco found such an employer. But when that company eventually went out of business, he was given 30 days to leave the country.

"I had no options," Francisco recalls. "It was horrible.... These things happen without any warning."

Putting his knowledge of immigration law to work, Francisco applied for a work permit given to immigrants whose home countries have suffered a natural disaster. Thanks to a hurricane, he was granted Temporary Protective Status and allowed to stay in the country.

He is employed at a nonprofit that is sponsoring him for permanent residency, better known as the green card—essentially what Jonathan is not allowed to do. The green card allows the bearer to work anywhere; all other visas are considered non-immigrant and are job-specific. You cannot quit that job or you quit your visa, and you quit America.

Francisco realizes he's one of the fortunate ones because his education makes him a valuable commodity and his legal background helps him work within the system. Without his degree, he knows he wouldn't be here with Jonathan right now.

"The immigration system in the U.S.," he asserts, "seems to be made in such a way as to create an underclass of people who don't have the same rights as everyone else. It's a constant source of cheap labor that has no right to unionize, that has no rights to benefits, that can be removed at any time by calling the INS."

The couple do not hold much hope for the Permanent Partners Immigration Act in a post-Sept. 11 climate. "It was possible before," Jonathan claims, "but it would not be politically savvy for any of them to vote in favor of that bill right now."

As part of a new immigration tracking plan announced by the White House, investigators are collecting data on all Middle Eastern students at more than 200 universities nationwide. Because the federal government has a legal right to this information, schools have no choice but to release personal records of foreign students.

Investigators are contacting and interrogating students directly. It is widely known among the population that more than 1,000 people of Middle Eastern and Central Asian descent are being held and questioned in connection with the terrorist attacks.

Such is the reason Seattle-area resident Brian and his Israeli partner, Kobi, live in fear.

Brian met Kobi in 1995 in Tel Aviv, where he moved after completing studies at Hebrew University in Jerusalem. He was working as a waiter when "one fine summer day, the most gorgeous man I had ever laid eyes on walked in. With a girl. Story of my life."

Fortunately, Kobi's gaydar was savvier than Brian's, and the two managed to hook up. "We've been together almost every night since," Brian says.

The pair lived together in Israel, making a life Brian calls "good but very hard." Because of the lack of decent jobs, "we would both work 90- to 100-hour workweeks and get a total paycheck between the two of us of less than I make on my own here now."

They moved to the United States last year, thinking they might return to the Middle East eventually. But because of Israel's ongoing conflict, that option is impossible.

"Daily there are terrorist attacks, from shootings to bombings," Brian says. "The economy is in a shambles...the unemployment rate is the highest it has ever been."

Israel also has compulsory military service, which Kobi would be required to fulfill in the form of what Brian refers to as a "so-called 'reserve unit.'" He says these are the soldiers who "always wind up in body bags."

Kobi has been in the United States on a visitor visa, which expired in June. Their lawyer told them he should apply for a student visa, "as that was our only hope to keep him here," Brian says. Six months later, they still are awaiting a response from the INS.

In the meantime, Brian is arranging for a possible move to Canada, a country that has become sanctuary to numerous displaced binational couples. In an amazing show of human interest, it allows U.S. citizens to live there, then sponsor their same-sex partners for residency, complete with the right to work.

This seems like a viable solution, but it makes Brian angry he might have to go through with it. "It is my right as a United States citizen to live in my country, of which I have never been more proud—nor more ashamed...what the INS is now doing to people of Mideast descent is horrific."

He says he lives in constant dread. "We know several Israelis who have been rounded up and thrown in prison...They tell of other foreigners in prison with them who have been there for years on no charges.... So are we afraid? Yes...we are scared of the government of the United States. 'The home of the free.' Right." ■

For more information contact the LESBIAN AND GAY IMMIGRATION RIGHTS TASK FORCE Portland chapter at 503-471-1568 or lgirtfpx@hotmail.com.

LISA BRADSHAW is a writer and editor at Just Out.

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—Brian



The Lesbian and Gay Immigration Rights Task Force provides support and information to same-sex binational couples