

# BREAKING BORDERS & BINARIES

...

WITH  
FRANCIS  
AMANI  
MUSHAMBI  
HE/HIM



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Francis Amani is a Zimbabwean transgender man, who lives in South Africa. He describes his experience of seeking asylum in South Africa as a "dream come true", because it afforded him the opportunity to be the man that they always wanted to be.

Francis recalls the difficulties of applying for asylum, expressing that DHA officials suspected him for fraud since their official Zimbabwean documents were marked as female. Francis stresses how frustrating his experience was of having to convince officials to a point where they had to show off their chest.

Francis applied for asylum in 2019 and didn't get any response. They reapplied in 2020 but still awaiting updates on his asylum application. Francis expresses the difficulties of not having the necessary documents because it is making him vulnerable to violence. Francis expresses how at their current employment they were outed to the point where they are instructed to use the female bathrooms.

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“my hope is to be documented, to have the same rights like anyone else and to have the same access to gender affirming health care like South African”

- FRANCIS AMANI MUSHAMBI

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*Focus: Know your rights*

## Did you know?

The Alteration of Sex Description and Sex Status Act (Act 49 of 2003) is a South African law that allows a trans person to change their gender marker as it currently appears on their Smart ID Card (Previously known as an ID Book) through the South African Department of Home Affairs (DHA).

The Alteration of Sex Description and Sex Status Act 49 of 2003 allows transgender South Africans to change their legal gender markers; however, the strict requirements of the law impose barriers on legal gender recognition that leave many transgender people without accurate identity documents. The Act requires that medical or surgical gender reassignment procedures have taken place. The statute defines "gender reassignment" to mean a process undertaken for the purpose of reassigning a person's sex by changing physiological or other sexual characteristics and includes non-surgical interventions such as hormone therapy. An application to change gender marker must be submitted along with a birth certificate and a confirmation from two medical practitioners that medical or surgical gender reassignment procedures have taken place.

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The law requires a medical diagnosis along with some sort of medical intervention, many transgender people cannot obtain legal gender recognition as a result. Such interventions may be costly as well as inaccessible, particularly for poor working class, peri-urban, or rural transgender persons, as the providers for gender-affirming procedures are usually only found within major cities. Moreover, the law prevents those who do not desire reassignment procedures in the first place from obtaining proper legal documents, including those who are unable to undergo procedures due to health factors.

Since its inception, Act 49 has failed to alleviate the burdens of trans and gender diverse people in South Africa. Many shortfalls exist in both the substantive content of Act 49 and the manner in which it has been implemented. Some of these shortfalls include the lack of accompanying directives and regulations, a narrow and limited interpretation, discriminatory implementation, its lack of clarity, an over-reliance on medicalisation and the language used.

This has far-reaching consequences wherever transgender people need to produce documentation, essentially prohibiting access to basic services such as health care, education, employment, and travel; receiving social grants; or undertaking essential tasks such as opening a bank account, accessing temporary housing, acquiring a driving license, and voting.

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