

Nadia Swanepoel – transgender woman hunger strike press statement

Nadia Swanepoel, a transgender woman has gone on a food and liquid hunger strike. She will also seek a DNR (do not attempt to resuscitate). Nadia Swanepoel began her transition 4 years ago and has been through a lot of physical changes, in order to reflect the new person she has become. She sought to change both her name and her gender marker on her identity document in terms of the Alteration of Sex Description and Sex Status Act 49 of 2003 (Act 49); her first attempt with Home Affairs was 3 years ago. This Act was enacted in order to facilitate the transitioning process for transgender and intersex persons.

However because of the endemic discrimination inherent within the administrative process at Home Affairs; Nadia has not received a new identity document reflecting her new name and gender identity. Home Affairs has lost her application documents several times which has required her to reapply for the same process. When she recently went to enquire about her latest application she was told that she needed to have genital surgery in order to meet the requirements for the change. This is a blatant lie and delay tactic as Act 49 explicitly makes it clear in Section 2(1) that “Any person whose sexual characteristics have been altered by surgical **or** medical treatment or by evolvment through natural development resulting in gender reassignment ... may apply to the Director-General ... for the alteration of the sex description of his or her birth register.” (emphasis added) This section makes it clear that medical treatment is the minimum requirement.

The lack of regulations to oversee and streamline the application process at Home Affairs has meant that the application process is left to the whims of Home Affairs’ officials and their prejudices. There is no regularized process for the applications. This has meant that applications get lost or are simply rejected without sufficient reasons. Denying a person an ID takes away their livelihood and citizenship as one is unable to access services and enter into contracts such as bank accounts, rental agreements, loan contracts, opening a hospital file, updating a driving licence and most importantly a person is denied their right to vote. The state’s failure to provide transgender persons with the necessary documentation puts transgender people at risk of being seen as fraudulent which subjects them to humiliation and potential arrest.

On her part Nadia wants Home Affairs to realise that their conduct has cost her economically and emotionally. She has been forced into escorting as she cannot obtain permanent work with her identity document reflecting male. “It is inhumane to live like this, I feel like my life has no purpose and it frustrating because I know that other transgender woman are experiencing this difficulty.”

Nadia’s story is not new. Gender DynamiX is regularly contacted by transgender people with similar experiences. Even though South Africa is seen as a LGBTI heaven, the practice does not match the laws. The laws meant to guarantee equal access to rights are incorrectly and at times not implemented at all. Transgender people still face transphobic discrimination from Home Affairs officials and Gender DynamiX’s attempts to educate and sensitize Home Affairs have fallen on deaf ears. Gender Dynamix wants to point out that this is not an isolated case, it is a systematic problem that impacts on transgender people’s lives. We call on Home Affairs to issue Nadia with an identity document which reflects her gender identity and we call upon Home Affairs to issue out regulations and guidelines to all Home Affairs branches on how Act 49 applications should be processed in line with the amendment Act 49 of 2003 as per timeframes prescribed by law.

For more information contact Busisiwe Deyi at research@genderdynamix.org.za