


Gaps in the “Rainbow Nation”: A Critique of South Africa’s Tolerance of Conversion Therapy

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ABSTRACT

South Africa has not yet enacted a specific legislative ban on conversion practices. This is despite widespread international consensus that so-called conversion practices—aimed at changing an individual’s sexual orientation, gender identity, or gender expression—are harmful, unethical, and violate fundamental human rights. This omission is particularly striking given South Africa’s globally lauded Constitution, which enshrines the rights to equality, dignity, and bodily and psychological integrity, and is often celebrated for its progressive protection of LGBTQ+ persons. This article critically examines the dissonance between South Africa’s constitutional values and its legal silence on conversion practices, especially as they relate to vulnerable groups. Drawing on domestic jurisprudence, international human rights law, and comparative legislative developments from jurisdictions such as Australia and Germany, the article argues that the continued permissibility of conversion practices in South Africa constitutes a systemic failure to fulfil both constitutional obligations and international commitments. It also examines the professional stances adopted by organizations such as the Psychological Society of South Africa and critiques the limitations of relying solely on ethical guidelines in the absence of statutory or criminal sanctions. The article concludes with a call for urgent legal reform, proposing a rights-based legislative framework that expressly prohibits conversion practices and aligns South Africa’s domestic law with its constitutional ethos and global human rights standards.

KEYWORDS

Conversion practices; LGBTQ+; sex and gender; gender identity; South Africa

Introduction

South Africa occupies a unique position on the African continent, often praised for its progressive constitutional framework and its robust protection of sexual and gender minorities. Yet, this image of constitutional modernity is complicated by a glaring omission: the absence of any specific legislative prohibition against conversion practices. These so-called “therapies” - intended to alter, suppress or change an individual’s

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sexual orientation, gender identity, or gender expression—have been widely discredited by psychological and medical professionals across the globe and condemned as human rights violations by international legal bodies. To date, only 15 countries have explicit bans on conversion practices (The Global Equality Caucus, 2022). None of the countries listed is on the African continent.

This article interrogates the tension between South Africa's constitutional promises of equality, dignity, and bodily integrity, and its legal silence on conversion practices. Drawing on comparative examples from jurisdictions such as Australia and Germany, and engaging with international human rights norms, the article argues that South Africa's failure to address conversion practices amounts to a systemic failure to protect LGBTQ+ persons, particularly children, and adolescents, from profound psychological and social harm. Furthermore, the article critiques the current reliance on professional guidelines from bodies such as the Psychological Society of South Africa (PsySSA).

The article ultimately advances a call for urgent legislative reform. It proposes a rights-based legal framework that explicitly prohibits conversion practices in line with South Africa's constitutional ethos and its international obligations, and that centers the protection of vulnerable people from irreparable harm.

The Constitution of the Republic of South Africa, 1996 (the Constitution), is often heralded as one of the best in the world. The late United States Supreme Court Justice Ruth Bader Ginsburg surveyed the most cited courts in the world (Mavedzenge, 2021). The survey found that the South African Constitutional Court (the highest court in the land regarding all constitutional matters in South Africa) was the second most cited court globally, only second after the Canadian Supreme Court (Mavedzenge, 2021).

While some countries may have implicit or indirect bans as well as Bills being tabled to advocate for bans (The Global Equality Caucus, 2022), South Africa, much like the rest of the African continent, has remained silent on the issue. It is therefore a prime opportunity for South Africa to take up the mantle and lead the continent in this regard due to its strong constitutional ethos. South Africa should therefore be poised to be the first African country to ban conversion therapy because it has a constitutional framework uniquely positioned to do so: its guarantees of dignity, equality, and freedom from discrimination provide a clear legal basis for prohibition. Enacting such a ban would not only protect LGBTQ+ people—especially vulnerable children—from documented harm but also reaffirm South Africa's role as a continental leader in advancing human rights, closing the gap between constitutional ideals and lived realities.

Conversion practices in real-time—the tragic story of Raymond Buys

On 20 April 2011, a then 15-year-old, Raymond Buys, was killed at Echo Wild Game Rangers (McCormick, 2013) in Vereeniging, South Africa. He was starved, beaten, electrocuted, chained to a bed and forced to eat his own feces at this establishment, which was linked to conversion practices. His mother had sent him to the camp with hopes of “providing a better life for him.” The camp was run by Alex de Koker, a man with ties to the South African far-right organisation—the Afrikaner-Weerstandsbeweging (AWB).¹ Although advertised as a camp to prepare men to become game rangers, it quickly emerged that there were gay reparative undertones (Davis, 2013).

Buys was not the only teenager to have died at the hands of de Koker. Four years prior to Buys’ death, Eric Calitz, 18 years old, and Nicolaas van der Walt, 19 years old, had both died after being enrolled at the Echo Wild Game Rangers camp (Davis, 2013). De Koker reportedly said to Calitz that he wasn’t a “moffie” (a derogatory term in the Afrikaans language for “gay”) and he (De Koker) would make a “man out of him.” Gender activist Melanie Nathan has suggested that a commonality existed between the 3 teenagers, namely that they were all perceived as gay and effeminate (Davis, 2013).

On 16 April 2015, De Koker was sentenced to 20 years for murder and five years for child abuse in respect of the death of Raymond Buys. His co-accused, Michael Erasmus, who carried out some of the abuse, merely received a 12-year suspended sentence for murder (Barr, 2019). While the knowledge that de Koker is being punished for his crimes, the following question must be asked: why was the camp allowed to continue to operate after the deaths of Calitz and van der Walt? In 2009, when De Koker stood trial for the deaths of Calitz and Van der Walt, he received a suspended sentence over Calitz’s death and was not charged with Van der Walt’s death because it was ruled to have been caused by a heart attack (Davis, 2013). Knowing that 2 young people who had died at the camp should have raised several red flags. Why were these deaths occurring? Furthermore, what exactly was happening behind the gated fences of the camp?

Unfortunately, the truth is hiding behind a lack of decisive national legislation on the part of South Africa (but certainly many other countries), which has failed to address the controversial existence of conversion practices.

Terminology and background

Conversion practices—sometimes misleadingly referred to as conversion “therapy” or “sexual orientation change efforts” (SOCE)—encompass a range of interventions that claim to change or suppress a person’s sexual orientation, gender identity, or gender expression (A/HRC/44/53 paras 2 and 17). These practices are typically grounded in the belief that heterosexuality and cisgender

identities are the norm, and that other sexualities or gender expressions are deviant, pathological, or in need of correction (Blakemore, 2019). The term “therapy” is a misnomer, as most mainstream medical and psychological bodies reject the notion that sexual or gender diversity constitutes a disorder requiring treatment (Drescher, 2001, 2008, 2015; ILGA World, 2020).

Crucially, the term “conversion therapy” fails to capture the coercive and often abusive nature of these interventions. Legal scholars and human rights advocates increasingly prefer the term “conversion practices,” or SOCE, as per the (American Psychological Association, Report of the American Psychological Association Task Force on Appropriate Therapeutic Responses to Sexual Orientation [APA], 2009), to denote that these are not legitimate therapeutic interventions, but rather harmful and discriminatory acts rooted in ideologies or beliefs of heteronormativity and cisnormativity (Kinitz & Salway, 2022). This linguistic shift is important: it reframes the issue as one of rights violations rather than therapeutic misjudgment and aligns domestic discourse with international best practices and comparative legislative language. Therefore, for this article, the author will use the term “conversion practices” to steer away from the medicalized viewpoint of so-called “therapy.”

In 2012, the Pan American Health Organization (PAHO) noted that “conversion therapies” had no medical justification and represented a severe threat to the health and human rights of the affected persons. Furthermore, in 2016, the World Psychiatric Association found that “there is no sound scientific evidence that innate sexual orientation can be changed. Finally, In 2020, the Independent Forensic Expert Group (IFEG) has declared that offering “conversion therapy” is a form of deception and fraud.

The definitional clarity around what constitutes conversion practices is essential for any legal or policy intervention. It enables the development of precise statutory prohibitions, guides enforcement and accountability mechanisms, and affirms the lived realities of survivors. As this article will show, the failure to adequately define and prohibit these practices in South African law represents not merely a legal omission, but a deeper moral and constitutional failing. The importance of a definition may also assist in identifying the practices that have existed on the fringes of society.

Furthermore, research shows that religious leaders often appear to be among the most outspoken proponents of conversion therapies, making a case that to question one’s gender identity and sexual orientation is not in line with the faith in which the person chooses to practice (ILGA World, 2020). In fact, in most cases, the boundaries between psychotherapy and religious counseling in the guise of “therapy” can be blurry or even non-existent. According to the 2019 statistics from the international organization OutRight Action International, 75% of conversion practices in Africa, for instance, are carried out for religious and cultural reasons (Naidoo &

Sogunro, 2021). This leaves a gap for bad-faith actors to provide “counselling” under the guise of religion to carry out conversion practices (Mendos, 2020). Thus, there is a need to have a definitive and comprehensive definition in order to cover any and all instances of conversion practices, in order to ban the practice altogether in instances where it may be difficult to ascertain who still employs conversion practices. Even in the Report by the UN Independent Expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity echoed the insidious and covert nature of faith-based conversion practices (A/HRC/44/53 at paras 30, 50–54):

Faith-based organisations and religious authorities in particular operate in a space surrounded by blurred lines, advising the family and victim and often promoting or providing the practices alone or in partnership with others.

Methodology and literature review

This article adopts a comparative and interdisciplinary approach. It primarily involves a critical analysis of South African constitutional and statutory law, with particular emphasis on the rights to equality, dignity, and bodily and psychological integrity as protected in the Bill of Rights in the South African Constitution. This interdisciplinary approach also explores insights from psychology and queer theory to frame conversion practices not only as a legal issue but as a form of socially sanctioned harm rooted in heteronormative and cisnormative ideologies and beliefs. This approach ensures that legal argumentation is guided by empirical evidence of harm and broader socio-political dynamics that shape the lived experiences of LGBTQ+ individuals in South Africa.

The article also evaluates existing ethical and professional guidelines issued by relevant bodies such as the PsySSA and the Health Professions Council of South Africa (HPCSA), in order to assess the current non-legislative framework addressing conversion practices. Furthermore, in 2015, the South African Society of Psychiatrists (SASOP) released a position statement which stated the following:

SASOP opposes any psychiatric treatment such as “reparative,” or “conversion” therapy designed to change a person’s sexual orientation from homosexual to heterosexual and supports the opinion of the APA that “there is no scientific evidence that reparative or conversion therapy is effective in changing a person’s sexual orientation. There is, however, evidence that this type of therapy can be destructive.” Reparative therapy runs the risk of harming patients by causing depression, anxiety, and self-destructive behaviour

In addition to domestic sources, the article draws on international and regional human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the

Child (CRC), and General Comments by United Nations (UN) treaty bodies, to assess South Africa's obligations under international law. Comparative reference is made to jurisdictions that have enacted explicit prohibitions on conversion practices, including Germany and certain territories in Australia, to inform proposals for law reform within the South African context.

Finally, this article adopts anti-oppressive practice (AOP) as its theoretical lens for analyzing conversion practices. At its core, AOP seeks to identify, challenge, and transform structures of power that marginalize certain groups, while centering the voices and experiences of those most affected by oppression (Clifford & Burke, 2009). It rejects the notion of neutrality, recognizing that professional practices either reinforce or resist systemic inequalities. Applied to conversion practices, AOP exposes how these interventions operate as mechanisms of heteronormativity and cisnormativity rather than legitimate therapeutic techniques. Far from being value-free, such practices attempt to erase or suppress LGBTQ+ identities, thereby reinforcing the dominance of heterosexual and cisgender norms (Kinitz & Salway, 2022). From an AOP perspective, these practices are best understood as forms of institutionalized oppression that reproduce social hierarchies under the guise of care.

This theoretical underpinning also reframes legal and policy inaction. Failing to prohibit conversion practices is not a neutral omission but an implicit endorsement of structures that privilege certain identities at the expense of others (Trispiotis & Purshouse, 2022). AOP therefore positions prohibition as more than a protective intervention: it is an essential step in dismantling systemic oppression and affirming the dignity, equality, and autonomy of the LGBTQ+ community. By situating conversion practices within this framework, the article highlights their discriminatory foundation and advances the case for legal reform grounded in principles of justice and anti-oppression.

International and regional consensus on conversion practices

International human rights framework

South Africa's continued legal silence on conversion practices stands in stark contrast to its international legal obligations. As a State Party to multiple human rights treaties, South Africa is bound to uphold and protect the rights of all individuals—including LGBTQ+ persons—against discrimination, violence, and degrading treatment. The failure to enact specific legislation prohibiting conversion practices amounts to noncompliance with these obligations. The various international instruments which South Africa has ratified will now be discussed.

The international Covenant on civil and political rights

The ICCPR, ratified by South Africa in 1998, enshrines the right to freedom from torture and cruel, inhuman or degrading treatment or punishment (Article 7), the right to privacy (Article 17), and the right to equality before the law and protection from discrimination (Articles 2 and 26).

In its 2020 report, the UN Independent Expert on Sexual Orientation and Gender Identity expressly identified conversion practices as forms of cruel, inhuman, or degrading treatment, particularly when carried out without full and informed consent (A/HRC/44/53 paras 62, 65 and 75). The Human Rights Council, which monitors implementation of the ICCPR, has consistently affirmed that states must take proactive measures to prevent such treatment, especially where vulnerable populations, such as LGBTQ+ youth, are at risk (A/HRC/44/53 para 74).

The CRC

The CRC, ratified by South Africa in 1995, imposes an extensive array of obligations aimed at protecting the well-being, dignity, and evolving capacities of children. Article 3(1) articulates the best interests of the child as a primary consideration in all actions concerning children, while Article 19 mandates protection from all forms of physical or mental violence, injury, or abuse.

Conversion practices inflicted on children—often with parental or religious sanction—fall squarely within the scope of these prohibitions. The UN Committee on the Rights of the Child (UNCRC) has emphasized that discrimination based on sexual orientation and gender identity is a violation of children’s rights. The failure of South African law to prevent or prohibit conversion practices on minors may thus amount to a dereliction of its obligations under the CRC.

Insofar as the international law governing this position as it relates to children, there is a general understanding of the vulnerability of children, particularly adolescents. In General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence, the UNCRC (CRC/C/GC/20 para. 34) emphasized:

... the rights of all adolescents to freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy ... [urges] states to eliminate such practices, repeal all laws criminalizing [*sic*] or otherwise discriminating against individuals on the basis of their sexual orientation, gender identity or intersex status and adopt laws prohibiting discrimination on those grounds.

The Committee noted that adolescents are on a rapid curve of development—a unique defining stage of human development (CRC/C/GC/20 para. 9). This

General Comment also highlights that while parents are ultimately placed to act in the best interests of the child, the child may also be cognizant of what is in their best interest (Mezmur, 2021; Skelton, 2021). This creates a tension between the rights and responsibilities that a parent has in regard to their child's well-being, but also that the child is in a constant state of growth, cognizant of their evolving capacities and parents and relevant actors surrounding that child must act in accordance with that knowledge. Article 5 of the CRC acknowledges this tension:

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized [*sic*] in the present Convention.

CEDAW

As stated above, while traditionally associated with cisgender women, the CEDAW Committee has in recent years affirmed that transgender women and other gender-diverse persons fall within the scope of the Convention. In its concluding observations to several states, the Committee has raised alarm about conversion practices as a form of gender-based violence.

In 2021, in its Concluding Observations on the Fifth Periodic Report of South Africa, the CEDAW Committee did not directly address the issue of conversion practices (CEDAW/C/ZAF/CO/5). However, the Committee did recommend that the State provide information in its next periodic report on the situation of women facing intersecting forms of discrimination, including lesbian, bisexual, and transgender women and intersex persons, and on measures taken to address such discrimination. This can be interpreted to mean that the periodic report submitted by South Africa did not include sufficient information regarding the situation of LBGI women in South Africa. Upon reading the fifth periodic report of South Africa, it becomes clear that there is no mention of conversion practices at all (CEDAW/C/ZAF/5 para 60).

A plain reading of CEDAW's text may not inspire any degree of confidence that it can speak to the discrimination and inequalities that lesbian, bisexual, queer, and trans women experience. The Convention does not refer to women's understanding of their gender or sexuality (Campbell et al., 2021). However, CEDAW is uniquely and ideally situated to recognize intersectional forms of discrimination against lesbian, bisexual, and transgender women, to guide States implementing all appropriate measures to eliminate such discrimination, and to lead the evolutionary development of international human rights law in this area (Campbell et al. 2020).

In 1995, the World Conference on Women took place in Beijing. The Beijing Declaration and Platform for Action, the outcome documents of the Conference, recognized the multiplicity of women's experiences and additional vulnerabilities of certain groups of women, including women in the LGBTI community (Bond, 2021). Since the Beijing Conference, LGBTI women's groups have been active at the UN spaces, particularly when engaging with the CEDAW Committee. This engagement has been reflected in the growing attention of the CEDAW Committee to human rights violations faced by LGBTI women (ILGA World: Sesin, 2023). Between 2014 and 2021, the CEDAW Committee conducted 172 country periodic reviews, with 55% of them having concluded with references to LGBTQ+ in the concluding observations. The percentage of country periodic review during this period amounted to 67%, meaning that there were still cases where the CEDAW Committee did not reflect civil society's concern regarding LGBTQ+ human rights, in its concluding observations (ILGA World, 2020).

There is, therefore, a growing body of global literature condemning conversion practices as a form of psychological violence and torture, particularly when inflicted on children. Furthermore, in the 2016 Report of the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment (A/HRC/31/57 para 48), the UN Special Rapporteur on Torture stated that:

Given that “conversion therapy” can inflict severe pain or suffering, given also the absence both of a medical justification and free and informed consent, and that it is rooted in discrimination based on sexual orientation or gender identity or expression, such practices can amount to torture or, in the absence of one or more of those constitutive elements, to other cruel, inhuman or degrading treatment or punishment.

This complex and tenuous dynamic between international law and South Africa's obligations will be explored below in the domestic context as it pertains to conversion practices later in this article. However, it is promising that this relationship be explored in light of Section 39(2) of the Constitution:

When interpreting the Bill of Rights, a court, tribunal or forum *must* [author emphasis] consider international law

Therefore, there is a positive duty on the State to see to the implementation of the international treaties to which they are a Member State.

Regional human rights framework—“all eyes on Africa”

Recent legislative developments in Africa have raised concerns about the potential negative impact on the rights of LGBTQ+ individuals. There is a culture of silencing and stigmatization of the LGBTQ+ community. This erasure has been normalized over the history of civilization, particularly in Africa, where most countries still criminalize the LGBTQ+ community

(Access Chapter 2, 2025). The main perpetrators in Africa are traditional healers and religious leaders (International Rehabilitation Council for Torture Victims (IRCT), 2020). Therefore, there is a need for urgent intervention regarding the prevention of conversion practices on the African continent. There is thus a need to analyze the structures currently in place that may aid in this plight.

Regionally, the African Charter on Human and Peoples' Rights (ACHPR) may provide guidance, although it has not tested the banning of conversion practices. It is argued herein that the following articles can be used as a basis to justify the banning of conversion practices (this is not an exhaustive list):

Article 4: Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5: Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 16 (1): Every individual shall have the right to enjoy the best attainable state of physical and mental health.

Article 18(3): 3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

The ACHPR is unique in that it not only provides for rights but places duties upon individuals (much like the African Charter on the Rights and Welfare of the Child). This can be a double-edged sword, but it must also be viewed in the very specific context of the continent and its strong cultural preservation and the roles that everyone must play therein. This may be difficult to navigate from the lens of the Global North, as no international treaty bodies frame their treaties in this manner. One such example can be seen in the possible abuse of Article 29 (1) of the ACHPR, which states that:

The individual shall also have the duty to preserve the harmonious development of the family and work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need.

Furthermore, the ACHPR and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (also known as the Maputo Protocol)² may offer further grounds for prohibition. Article 5 of the ACHPR prohibits torture and cruel, inhuman or degrading treatment, while Article 4(1) of the Maputo Protocol affirms that women and girls are entitled to protection from all forms of violence.

The African Commission on Human and Peoples' Rights (the African Commission), held its 55th Ordinary Session in Luanda, Angola, from 28 April to 12 May 2014, calling on states to protect individuals from violence and other human rights violations based on their real or perceived sexual orientation or gender identity. This led to the drafting of Resolution on Protection against Violence and other Human Rights Violations against Persons based on their real or imputed Sexual Orientation or Gender Identity (ACHPR/Res 275(LV, 2025). While non-binding, this resolution signals a shift in regional norms and provides a strong basis for legal reform within the African context.

The Maputo Protocol came into being in part due to the discrimination and subjection to harmful practices against women despite many African nations having ratified CEDAW, the CRC and the ACHPR, to name a few. While conversion practices are expressly prohibited or a part of this Protocol, the same argument can be made regarding the use of CEDAW to interpret the harm caused to through the continued practice of conversion practices against LGBTQ+ women in this regard.

Recent developments include the passing of Resolution 275 of the ACHPR³ i.e. the Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity—ACHPR/Res.275(LV) 2014 to recognize and defend the rights of sexual and gender minorities. The Resolution, *inter alia*, “[S]pecifically condemns the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity” Resolution 275 has been invoked in limited but significant ways to advocate for LGBTQ+ rights in Africa. In Nigeria, for example, a 2018 African Commission communication (Case No. 605/16) by an NGO referenced Resolution 275 to challenge the Same-Sex Marriage Prohibition Act, urging the Commission to address violations of ACHPR Articles 2 and 3 (Ikpo, 2023). Though no ruling has been publicized, the case demonstrates Resolution 275’s use in regional advocacy (Kasa, 2025). This presents a positive step forward

However, in contrast, one has Article 29(7) of the ACHPR, which provides a potential avenue to cling to the long-held notion that homosexuality is “Un-African.” According to Article 29(7), individuals have a duty to:

preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society.

This provision, for example, could potentially be interpreted to pave a path for parents and/or caregivers to dictate, with impunity, that a child can be subject to conversion practices to preserve the integrity of the family structure. This presents a possible challenge which could

potentially amount to the child being seen as an extension of the family and not their own person with the right to act in their own best interests and not necessarily those of their parents, family, and community.

This, however, stands in contrast with the historical proof that LGBTQ+ identities existed on the continent pre-colonialism (Baird, 2024; Ibrahim, 2015; Murray and Roscoe, 2021). However, with the ushering in of colonization, these identities were demonized, and homophobia and transphobia are rampant on the African continent. The persistence of these practices is further shaped by Africa's broader sociopolitical environment, where criminalization of same-sex relations and weak protective legal frameworks create conditions in which conversion practices are socially sanctioned and rarely challenged (Mugerwa-Sekawabe, 2025; OutRight International, 2022).

Conversion practices in Africa are increasingly documented as a pervasive threat to the rights and well-being of children, rooted in intersecting social, cultural, and legal dynamics. Empirical studies from Nigeria, South Africa, and Kenya reveal that children and adolescents are often the primary targets of conversion efforts because of their dependence on parents and caregivers, as well as the perception that their identities are malleable and "correctable" at an early stage (OutRight International, 2022; Access Chapter 2, 2025).⁴ Families frequently play a central role, motivated by fears of social stigma and reinforced by religious or traditional leaders who legitimize coercive interventions such as prayer camps, counseling, exorcisms, or even medicalized procedures (Center for Human Rights African Human Rights Policy Paper 3, 2022). It is estimated by research conducted by Outright International in South Africa, Kenya and Nigeria found that approximately half of the 2,891 LGBTQ+ participants had been subjected to conversion practices (OutRight International, 2022). 58% of the surveyed participants were from South Africa (Mugerwa-Sekawabe, 2025).

There is, thus, an urgent need for a purposive reading of the regional instruments in order to further strengthen the position on the continent regarding the need to prevent conversion practices from continuing. This also requires political will as has already been illustrated, Africa views LGBTQ+ identities as "un-African" and pushing against the grain of tradition. This, combined with the international legal framework, would go a long way in paving the way for reform in South Africa and other African state parties to these instruments. In this regard, the author seeks to illustrate the point by using South Africa, with its progressive Constitution, as a case study.

South Africa, as a leading human rights actor on the continent, has both a moral and legal responsibility to align its domestic law with the spirit and evolving interpretation of the African human rights system.

The Yogyakarta Principles and soft law norms

The Yogyakarta Principles (2007) and Yogyakarta Principles plus 10 (2017) represent a consolidated interpretation of binding international human rights law as applied to sexual orientation and gender identity. Principle 18 calls for the prohibition of any treatment aimed at changing or repressing an individual's sexual orientation or gender identity, emphasizing that such practices violate the rights to dignity, health, and freedom from torture. The Principles are considered soft law and thus not legally binding. However, the Yogyakarta Principles have found their way into domestic jurisprudence. The court in the South African case *September v Subramoney NO and Others* [2019] 4 All SA 927 (WCC) (*September* case) discussed below, made specific use of the Yogyakarta Principles in their judgment (paras 95 – 100). It also illustrates, however, that South Africa can, also rely on soft law sources such as the Yogyakarta Principles, in their jurisprudence.

South Africa's failure to codify a ban on conversion practices is thus out of step with internationally accepted interpretive norms, which reinforce the State's obligations under the Constitution despite making use thereof in some of its judgments. This has the potential of creating confusion.

The South African constitutional context—A constitutional dispensation without a ban

Background

South Africa has a painful and storied past with the brutality imposed not only by colonialism but apartheid thereafter. South Africa is also not exempt from the history of conversion practices. During apartheid, Dr Aubrey Levin, a psychiatrist in the South African Defence Force (SADF), led The Aversion Project, a medical torture programme designed to identify gay soldiers and forcedly “cure” their homosexuality (Gevisser & Cameron, 1995; Kaplan, 2001, 2004). This included forced castration and shock therapy. This program operated primarily in the 1970s and 1980s, during which time the apartheid regime considered homosexuality deviant and incompatible with its ideals of hypermasculinity and white supremacy. Details of the programme first came to light at hearings of the Truth and Reconciliation Commission with submission of *The Aversion Project*, a detailed investigation of the treatment of homosexuals in the South African Defense Force by a coalition of groups, including the Medical Research Council (Van Zyl et al., 1999).

When democracy was ushered into the country, South Africa's Constitution was (and remains) widely celebrated for its inclusive articulation of rights, including express protection against discrimination on the grounds of sexual orientation (section 9(3)). The rights to dignity (section 10) and bodily and psychological integrity (section 12(2)) further create a strong legal foundation

for opposing conversion practices. However, strangely, even after the events of The Aversion Project came to light, conversion practices have seemingly been low on the list of priorities regarding the protection of the LGBTQ+ community. Legal scholars such as de Vos, however, have critiqued the failure to translate these constitutional protections into concrete legislative interventions (De Vos, 2008).

There is an argument to be made that ethical guidelines (as will be discussed below), while symbolically important, lack enforcement and cannot meaningfully deter nonprofessionals or religious actors. This gap in enforcement highlights the structural weakness of relying on soft law instruments in the absence of binding statutory or criminal law.

The absence of a clear legislative ban not only permits ongoing harm but also signals weak political will to address deeply entrenched social stigma against LGBTQ+ persons. This failure to act reveals a troubling contradiction: while the state constitutionally commits to protecting marginalized communities, it tacitly allows practices that erode the very rights it is bound to uphold. The cumulative effect of these legal and regulatory gaps is that South Africa, despite its constitutional promise, remains a jurisdiction where conversion practices are not only unregulated but effectively permissible. This inaction allows harmful ideologies and beliefs to flourish under the guise of religious freedom, cultural practice, or family discipline, and it leaves survivors without legal remedies or recognition.

This situation also exposes a systemic contradiction in South African constitutionalism: while the State affirms LGBTQ+ equality in principle, it fails to operationalize that commitment through the necessary protective legislation. In effect, this legal silence constitutes a form of structural neglect—a failure to protect vulnerable groups, particularly children, from ideologically motivated harm.

The over-reliance on ethical and professional guidelines in South Africa

The PsySSA has been a national leader in the development of affirmative guidelines for working with sexually and gender-diverse individuals. In its 2017 guidelines, PsySSA (PsySSA, 2017) unequivocally denounces conversion practices as unethical and harmful, aligning with the position of the APA regarding the lack of scientific basis for conversion practices and its very real harms to those who fall victim thereto:

On a global scale, psychology has also failed sexually and gender-diverse people through unethical and unscientific practices. For example, homosexuality was listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM) as a mental illness until 1978, and differences in gender expression were treated as social deviance. Today, reparative therapies and efforts to change sexual orientation and gender identity to conform to normative societal standards of heterosexuality and cisgender, continue

despite empirical evidence that such approaches are unethical and can be harmful. (Substance Abuse and Mental Health Services Administration [SAMHSA], 2014)

However, it is the limited reach of such guidelines (PsySSA, 2017) that must be noted - which only apply to registered mental health professionals and do not extend to religious figures, traditional healers, or informal community actors who may also perform or endorse conversion practices (Naidoo & Sogunro, 2021). Conversion practices in Africa are also carried out for cultural reasons and through localized methods. This form of conversion practice in Africa is usually performed by traditional healers (OutRight International, 2022). They claim to be able to “cure” an LGBTQ+ person through, *inter alia*, potions. However, testimonies have shown that these treatments do not change anything (Naidoo & Sogunro, 2021). Furthermore, no formal regulatory or disciplinary process exists for laypersons or religious organizations who perpetuate these practices, leaving survivors with little recourse for justice or protection. As such, relying solely on professional ethics has created a regulatory vacuum.

In the absence of legislation, the only substantive prohibitions on conversion practices in South Africa come from professional bodies. As stated above, PsySSA has issued affirmative practice guidelines in 2017, stating unequivocally that conversion practices are unethical, ineffective, and harmful. These guidelines are in line with international standards and serve as an important symbolic and professional statement against the pathologisation of LGBTQ+ identities. However, these guidelines are only binding on registered mental health professionals. They do not extend to unregulated or informal actors such as religious counselors, spiritual leaders, or traditional healers, who may still engage in or promote conversion practices with impunity. Moreover, the HPCSA, while endorsing the PsySSA position, lacks the jurisdiction to discipline nonmembers or unregistered individuals. Thus, conversion practices continue in unregulated spaces with little or no oversight.

Constitutional rights and supporting jurisprudence

The right to equality under Section 9(3) of the Constitution prohibits unfair discrimination on the grounds of, *inter alia*, sexual orientation. This section has been central to jurisprudence on LGBTQ+ rights in South Africa. In *National Coalition for Gay and Lesbian Equality v Minister of Justice* 1999 (1) SA 6 (CC), the Constitutional Court struck down the criminalization of sodomy, affirming that the Constitution protects sexual minorities from discrimination and moral condemnation. This foundational case, alongside later rulings such as *Minister of Home Affairs v Fourie* 2006 (1) SA 524 (CC), has confirmed that the State may not impose a singular, heteronormative vision of sexuality or family. In the seminal case, heard before the

Equality Court in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, *September* case (as mentioned regarding the discussion on The Yogyakarta Principles), the court in their ruling regarding the fundamental rights of transgender women held in all-male correctional facilities in affirming their gender identity gave effect to Ms September's rights to dignity, equality and bodily autonomy by stating *inter alia*, that Ms September be called by her correct pronouns and that she not be subjected to cruel and inhumane treatment by the hands of the correctional officers and the State by extension. This case recognized the need for Ms September to also be allowed to conform to her gender expression through the use of, *inter alia*, make-up. While this case is not necessarily analogous to the subject matter of this article, this case is illustrative that South Africa can, when called upon to do so, the courts can rely on the Constitution to fulfil the ethos as the highest law of the land to protect LGBTQ+ persons.

Furthermore the right to dignity, as interpreted in cases such as *Dawood and Another v Minister of Home Affairs and Others*; *Shalabi and Another v Minister of Home Affairs and Others*; *Thomas and Another v Minister of Home Affairs and Others* 2000 (3) SA 936 (CC), is not passive but a foundational constitutional value that imposes positive obligations on the State. Sloth-Nielsen postulates, in this interpretation of the *Dawood* case, that anything that prevents a person from achieving personal fulfillment in an important aspect of their life, would violate their dignity (Sloth-Nielsen, 2020). Allowing conversion practices to continue unchecked undermines this right by reinforcing stigma, internalized shame, and the notion that LGBTQ+ identities are defective or illegitimate.

The legal gaps are especially troubling when read with the Preamble of the Constitution:

We, the people of South Africa,

Recognise the injustices of our past; Honour those who suffered for justice and freedom in our land;

Respect those who have worked to build and develop our country; and

Believe that South Africa belongs to all who live in it, united in our diversity.

We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to -

Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;

Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;

Improve the quality of life of all citizens and free the potential of each person; and

Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.

South Africa's unwavering stance on children's rights and the disconnect of continued conversion practices

As per Article 3 of the CRC:

- (1) In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration.
- (2) States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
- (3) States Parties shall ensure that the institutions, services, and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

The State's failure is particularly concerning when conversion practices are directed at minors. South African law recognizes that children are rights-bearers in their own capacity. Section 28(2) of the South African Constitution (not dissimilar to Article 3 of the CRC) states that the best interests of the child are of paramount importance in all matters concerning the child. This principle is echoed and elaborated upon in the Children's Act 38 of 2005 (the Children's Act), which prohibits practices that are harmful to a child's well-being, development, or dignity. In terms of Section 7 (1) (l) of the Children's Act:

Whenever a provision of this Act requires the best interests of the child standard to be applied, the following factors must be taken into consideration where relevant namely, *inter alia*, the need to protect the child from any physical or psychological harm that may (i) subjecting the child to maltreatment, abuse, neglect, exploitation or degradation or exposing the child to violence or exploitation or other harmful behaviour.

Conversion practices seek to invalidate the child's self-understanding and coerce them into conforming to socially dominant gender and sexual norms. Section 12(1) of the Children's Act explicitly protects children from social, cultural, and religious practices that are

detrimental to their well-being, yet no case law or regulation has extended this provision to conversion practices. This regulatory silence undermines the best interests principle espoused in the South African Constitution and the Children’s Act and renders LGBTQ+ children vulnerable to coercive interventions, often from family members or religious figures.

As illustrated by the *Buys* case above, children are perhaps the most vulnerable and susceptible to the continued practice of conversion practices, aided in part to parents’ and/or caregivers’ beliefs of what constitutes the best interest of the child. Krutzinna notes that there are assumptions and characterizations of groups of children (age, capability, maturity, dependency) that often dominate over attention to the particular child’s individual circumstances, which undermines the child-centredness of the “best interests” formulation (Krutzinna, 2022). It can be argued that the best interest principle is not without its fair share of critique.

There are tensions when best interests overlap or conflict with other rights (parents’ rights, children’s rights of privacy or autonomy, cultural or religious rights). Deciding which should prevail can be difficult. Those who may seek to critique legal intervention against conversion practices may appeal to the “best interests of the child” to argue for parental authority in shaping a child’s moral and religious upbringing. From this perspective, exposing a child to conversion practices is framed as protective—an attempt to safeguard them from what parents or faith leaders perceive as harmful, non-normative identities. Under this rationale, the best interests principle is interpreted narrowly, privileging parental rights and cultural or religious values over the child’s autonomy and self-determination.

Such arguments could be leveraged to assert that by limiting parental discretion in this regard it would amount to state overreach into family life, undermining the constitutionally recognized role of parents in guiding their children’s development. However, the invocation of the “best interests of the child” in the context of conversion practices is deeply problematic. While parents and religious leaders often justify such practices as being in the child’s best interests, this framing distorts the principle by subordinating the child’s autonomy, dignity, and evolving capacities to heteronormative and cisnormative ideals. A genuine application of the best interests principle, consistent with South Africa’s Constitution and the CRC, would recognize that affirming a child’s identity and safeguarding them from degrading treatment is central to their wellbeing. A study conducted in Australia, for example, highlights that LGBTQ+ youth who experienced conversion therapy were almost four times more likely to attempt suicide than LGBTQ+ youth who did not experience conversion practices (Jones et al., 2022). This statistic is alarming in the landscape of the children’s rights imperatives globally, including in South Africa.

While many studies document prevalence globally, particularly in the Global North, there are fewer accounts with full legal or medical documentation of formal therapeutic providers doing conversion therapy in regulated settings, which is also, unfortunately, a great limitation of the accounts of conversion practices taking place in South Africa.

Comparative legislative approaches: Possible lessons from Australia and Germany?

As conversion practices continue to draw international condemnation, a growing number of jurisdictions have adopted explicit legal bans to prohibit such interventions—particularly when directed at minors or other vulnerable persons. Among these, Germany and certain territories in Australia have emerged as leading examples of rights-based, statutory responses to the harms of conversion practices. Both jurisdictions offer useful models for South Africa to implement and express ban on conversion practices.

Australia: A federal approach grounded in human rights and child protection

Australia does not have a single, federal law banning conversion practices. Instead, reform has occurred at the state and territory level, with jurisdictions such as Victoria, Queensland, and the Australian Capital Territory (ACT) adopting some of the most comprehensive legislative bans globally.

The victorian Model

The Change or Suppression (Conversion) Practices Prohibition Act No. 3 of 2021 is widely regarded as being one of, if not the most, comprehensive bans regarding conversion practices. It criminalizes both formal and informal attempts to change or suppress a person's sexual orientation or gender identity, regardless of whether the practitioner is a health professional, religious leader, or layperson. The Act is comprehensive in the abolition and sanctions imposed on those who continue to employ conversion practices, *inter alia*:

Prohibits any conduct directed at changing or suppressing someone's sexual orientation or gender identity (Part 1 of the Act);

Applies to both adults and children (no specific provision ruling out the applicability of the Act to both groups)

Establishes a civil complaints mechanism through the Victorian Equal Opportunity and Human Rights Commission (Part 1, Division 1 of the Act)

Recognises that affirming LGBTQ+ identities is not criminal, thereby safeguarding legitimate therapeutic practices (Section 5.(2))

The law is victim-centered, recognizing the trauma of conversion practices and providing for support services and redress. It frames the issue as a matter of human rights abuse, not merely professional misconduct.

Australian capital territory (“ACT”)

In 2021, the ACT Government banned harmful sexuality and gender identity conversion practices. The Sexuality and Gender Identity Conversion Practices Act 2020 (effective 5 March 2024) provides a mechanism through which a person may make a complaint to the Human Rights Commission about sexuality and gender identity conversion practices. The Sexuality and Gender Identity Conversion Practices Act defines conversion practices, in Section 7(1), narrowly to:

a treatment or other practice the purpose, or purported purpose, of which is to change a person’s sexuality or gender identity.

It only prohibits conversion practices on minors and a person who has impaired decision-making relating to the person’s health or welfare. (i.e. “protected persons” for the purposes of the Act).

For the purposes of the Act, “sexuality or gender identity conversion practice” does not include:

a practice by a health service provider that, in the provider’s reasonable professional judgment, is necessary to—

- (a) provide a health service in a manner that is safe and appropriate; or
- (b) comply with the provider’s legal or professional obligations.

It would thus seem that the Sexuality and Gender Identity Conversion Practices Act *only* [author’s emphasis] applies to health care providers. This may leave a gap open for conversion practices to take place in a religious or other setting. The wording of the Sexuality and Gender Identity Conversion Practices Act appears to be very pathological in nature and does not create a framework that can be interpreted outside of that scope. It appears to be overbroad or vague, potentially encompassing a wide range of conduct. While the Act offers strong protections for minors, it assumes that adults can give free and informed consent to conversion practices. This may inadequately address subtle or institutionalized pressure faced by adults.

Germany: Protecting human dignity through statutory prohibition

In May 2020, Germany passed the Act to Protect Against Conversion Treatments (Gesetz zum Schutz vor Konversionsbehandlungen). The law:

Prohibits conversion practices on minors, as well as on adults whose consent was obtained through deception, coercion, or lack of full understanding;

Criminalises the offering, advertising, and promotion of conversion practices;

Penalises violations with fines and up to one year imprisonment;

Grounds its legislative rationale in Article 1(1) of the German Basic Law (Grundgesetz): the inviolability of human dignity. (Menschenwürde)

Violations of the ban on conversion treatments are to be punished with a prison sentence of up to one year. Furthermore, violations of the ban on advertising, providing and arranging shall be penalized with a fine of up to 30,000 euros.

Insofar as actors who can be punished for violations of the Act, the ban applies primarily to professionals in this field, as well as adults or other legal guardians or persons with parental authority. These actors can also be punished in cases of gross violation of their duty of care or their educational responsibilities.

It is held that there was a need for separate legislation to provide for conversion practices and not an incorporation into the German Criminal Code (Strafgesetzbuch/StGB).

The specific injustice of so-called conversion therapies lies above all in the encroachment on the sexual and gender self-determination and the impairment of the health of those affected, mostly employing psychological influence. Existing criminal law does not do this aspect sufficient justice. A separate law enables the bundling of penal provisions, provisions on administrative fines and the counselling services under one law; otherwise, it would have been necessary to distribute these provisions across several different laws.

The law only prohibits conversion treatments on minors (those under the age of 18) and, in limited circumstances, on adults when coercion, deception, or lack of consent is involved. This narrow interpretation means that adults over 18 remain vulnerable, especially those subject to religious, familial, or cultural pressure that may not meet the legal threshold for coercion. This ignores how structural or emotional coercion can undermine genuine consent. This article would thus seek a complete implicit ban for minors *and* [own emphasis] adults so as to insure that all LGBTQ+ individuals are protected. The German model is thus too narrow in application.

The law primarily targets medical and psychological professionals, with less clarity on informal, non-clinical conversion practices. Many harmful conversion practices happen outside formal healthcare, and perpetrators can claim they're engaging in non-medical "spiritual support." This thus creates a *lacuna* in the law upon a proper reading of the Act.

Comparative insights for South Africa

Australia and Germany offer instructive lessons for South Africa, particularly in:

Framing conversion practices as a rights violation (rather than a matter of religious or therapeutic freedom);

Extending the prohibition beyond professional spaces, to include religious and informal community settings;

Providing civil and criminal mechanisms to ensure both deterrence and access to justice for survivors;

Recognising the special vulnerability of children and adolescents, and responding with targeted protections; and

Anchoring reform in constitutional or human rights values, rather than mere health policy.

Both jurisdictions demonstrate that prohibition is not only possible but necessary in democracies committed to equality and dignity. South Africa, with its own constitutional emphasis on these values, is uniquely placed to adopt and improve upon such models despite their possible flaws (especially when adults are not protected as well).

The case for legal reform in South Africa

The absence of a specific legislative prohibition creates a regulatory vacuum that allows harmful and discriminatory practices to persist under the guise of religious freedom, family care, or cultural tradition. It is therefore imperative that South Africa enacts clear, rights-based legislation to prohibit conversion practices and align domestic law with its constitutional and international obligations.

Why current frameworks are inadequate

Existing legal instruments, such as the Children's Act, offer broad protections against abuse and harmful practices. However, they lack explicit reference to conversion practices, which allows perpetrators—especially those outside formal medical professions—to operate with impunity. Similarly, professional ethical guidelines, while important, only apply to a limited class of practitioners and carry no force of law. As a result:

Conversion practices conducted by religious figures, traditional healers, or family members are largely unregulated;

Survivors are left without legal remedies or clear avenues for redress;

The State is failing to exercise its positive duty to protect individuals from psychological and emotional harm.

In this context, the absence of legislation amounts to a form of state inaction that renders constitutional rights hollow for all LGBTQ+ people, particularly those who are most vulnerable—children, adolescents, and individuals in dependent or coercive environments.

Core elements of a rights-based legislative framework

A comprehensive South African legal framework to prohibit conversion practices should incorporate the following key elements:

Clear and inclusive definitions

Legislation must define “conversion practices” broadly to include: Any treatment, counseling, or intervention that seeks to suppress, “correct,” or alter a person’s sexual orientation, gender identity, or gender expression; Practices occurring in both formal and informal settings (e.g., medical, religious, familial); Practices targeting both minors and adults, with heightened protection for children.

Criminal and civil provisions

Law reform should include criminal sanctions for engaging in, promoting, or advertising conversion practices; Enhanced penalties when such practices are inflicted on minors or persons with impaired decision-making capacity; A civil complaints mechanism to enable survivors to report experiences to a regulatory body (e.g., South African Human Rights Commission or Equality Court), with access to remedies such as protection orders, damages, and counseling. *Exemptions for Affirmative and Supportive Practices*

Legislation should clarify that the ban does not apply to: therapeutic interventions that offer affirmative support for exploring identity; discussions that are non-coercive and respect autonomy and self-determination; religious or spiritual counseling that does not aim to change or suppress identity.

This approach ensures that legitimate therapy, pastoral care, and open conversations about identity are not chilled or penalized, while still prohibiting ideologically motivated interventions.

Public education and professional training

Families in Africa still resort to conversion practices due to the lack of knowledge that conversion practices do not work (Naidoo & Sogunro, 2021). Legal reform should be accompanied by public awareness campaigns about the harms of conversion practices; mandatory training for educators, healthcare

providers, religious leaders, and social workers on LGBTQ+ rights and affirmative care; partnerships with civil society and survivor-led organizations to monitor implementation and support survivors.

Constitutional and political imperatives

Enacting such legislation is not only a legal necessity but a constitutional imperative. The South African Constitutional Court has repeatedly emphasized the State's positive duties to create a society in which rights are meaningful and not merely theoretical. As articulated in *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC), the State must take reasonable legislative and other measures to realize constitutional rights. Moreover, legal reform would affirm South Africa's position as a regional and global leader in LGBTQ+ rights. It would send a powerful message that queer identities are not disorders to be fixed, but expressions of human diversity that merit full protection under the law.

South Africa remains conspicuously silent on the issue of conversion practices. This silence is not merely legislative oversight—it constitutes a systemic failure to protect some of the most vulnerable members of society, particularly children and LGBTQ+ persons, from ideologically motivated harm that undermines their dignity, equality, and psychological integrity.

Conclusion

As this article has demonstrated, conversion practices are widely discredited and internationally condemned. They violate core human rights, inflict lasting psychological trauma, and reinforce stigma against already marginalized identities. While professional bodies such as PsySSA have taken laudable ethical stances, their guidelines lack legal enforceability and cannot reach beyond the confines of regulated therapeutic contexts. The State's reliance on ethical self-regulation in the absence of statutory prohibition represents an abdication of its constitutional and international responsibilities.

Comparative jurisdictions such as Australia and Germany illustrate that it is not only possible but legally and morally necessary to prohibit conversion practices through clear, rights-based legislation. These countries offer valuable models for South Africa, particularly in framing conversion practices as a form of psychological abuse and a violation of the right to dignity.

In order to live up to the promises of its Constitution and its obligations under international and regional human rights law, South Africa must urgently enact a comprehensive legal ban on conversion practices. Such reform must extend beyond the health sector, targeting informal and

religiously motivated practices, and should be supported by public education, professional training, and survivor-centered redress mechanisms.

Ultimately, the recognition of LGBTQ+ rights cannot be partial or symbolic. A legal framework that tolerates conversion practices, even implicitly, tolerates violence, erasure, and inequality. The time has come for South Africa to honor the full spirit of its Constitution—not only by celebrating diversity in principle but by protecting it in law.

Notes

1. The AWB is an Afrikaner nationalist, neo-Nazi, and white supremacist paramilitary organization in South Africa founded in 1973 by white supremacist leader—Eugene Terre'Blanche.
2. Adopted by the 2nd Ordinary Session of the Assembly of the African Union, entered into force on 25 November 2005.
3. The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 55th Ordinary Session held in Luanda, Angola, from 28 April to 12 May 2014.
4. In 2019, Outright International, in partnership with three partner organizations—The Initiative for Equal Rights (TIERS) in Nigeria, galck+ in Kenya, and Access Chapter 2 (AC2) in South Africa—commenced a project to document and end conversion practices, also known as conversion “therapy,” that impact lesbian, gay, bisexual, transgender and queer (LGBTQ) people.

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