



Lustration and Transitional Justice

Vetting Former Combatants and Regime Officials

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ABSTRACT

This article examines Lustration and Transitional Justice: Vetting Former Combatants and Regime Officials with a focused emphasis on Madagascar within the field of Law. It is structured as a conference paper that organises the problem, the strongest verified scholarship, and the main analytical implications in a concise publication-ready format.

The paper foregrounds the most relevant institutional, policy, or theoretical dynamics for the African context and closes with a practical conclusion linked to the core argument.

Keywords: *Transitional Justice Vetting, Justice Vetting Former, Vetting Former Combatants, Transitional Justice, Justice Vetting, Vetting Former*

Article Highlights

- Examines legal and political challenges of lustration in Madagascar's unique context
- Identifies constitutional and practical impediments to vetting frameworks
- Proposes a context-sensitive model for assessing feasibility of transitional justice measures
- Analyses the clash between formal legal mechanisms and informal power structures

Methodological Approach

Qualitative comparative case study employing constructivist interpretation of legal processes, analysing Madagascar's legal framework alongside analogous African contexts.

This analysis reveals persistent patterns of political accommodation over formal accountability in Madagascar's transitions.

Introduction

The complex process of vetting former combatants and regime officials, known as lustration, presents a profound challenge for societies emerging from periods of collective violence and authoritarian rule ([Hearty, 2022](#)) ([Hearty, 2022](#)). In Madagascar, a nation marked by recurrent political

crises and contested transitions since its independence, the question of how to address the legacy of past regimes while building a stable, legitimate state remains acutely relevant(Koko, 2021)(Koko, 2021). This article examines the specific dilemmas of implementing lustration within Madagascar's unique socio-political context, where formal legal mechanisms often clash with informal power structures and the pressing need for reconciliation(Mandikwaza, 2022).

The core problem lies in balancing the demands for accountability and the removal of perpetrators from public office against the risks of renewed instability and the practical constraints of a fragile state apparatus. As Hearty(2022) argues, transitional justice processes are frequently shaped by 'presentist' agendas that prioritise contemporary political needs over a comprehensive reckoning with the past, a dynamic clearly observable in Madagascar's stalled initiatives(Fischer, 2011). The objective here is to analyse the feasibility and potential contours of a vetting framework that is both legally sound and contextually appropriate for Madagascar, drawing lessons from comparative experiences.

This paper will first outline its methodological approach, then present findings on the major obstacles and opportunities, discuss their implications for theory and practice, and conclude with recommendations for a viable path forward.

Methodology

This study employs a qualitative, comparative case study design to analyse the prospects for lustration in Madagascar's transitional justice landscape(Mandikwaza, 2022). The analytic strategy is grounded in a constructivist interpretation of legal processes, recognising that the law does not operate in a vacuum but is shaped by, and in turn shapes, political and social realities(Hearty, 2022). Primary evidence is drawn from a critical analysis of Madagascar's existing legal framework pertaining to public administration and security sector reform, alongside official reports from national dialogues and international bodies.

This is supplemented by a systematic review of secondary scholarly literature on transitional justice in analogous African contexts, such as the Central African Republic and Zimbabwe, to identify transferable lessons and common pitfalls. The work of Koko(2021) on post-transition options and Mandikwaza(2022) on grassroots frameworks informs the examination of institutional versus community-based approaches. The justification for this methodological approach lies in its capacity to illuminate the interplay between formal legal instruments and the informal political negotiations that characterise Madagascar's transitions.

A key limitation, however, is the relative scarcity of detailed, publicly available documentation on failed or aborted lustration attempts within the country, necessitating reliance on inferred patterns from documented political behaviour and comparative analysis.

Results

The analysis reveals a distinct and persistent pattern: despite periodic political openings, Madagascar has systematically avoided implementing any formal, comprehensive lustration process for former combatants or high-ranking officials from previous regimes(Hearty, 2022). Instead, evidence points to a consistent practice of political accommodation and integration(Koko, 2021). Following crises, such as those in 2002, 2009, and 2018, elite pacts have typically resulted in amnesties, power-

sharing arrangements, or the absorption of former rivals into new governmental or military structures, effectively bypassing judicial vetting.

This aligns with Hearty's(2022)observation of 'presentist' agendas, where short-term stability is prioritised over long-term accountability. The legal framework for vetting remains underdeveloped and fragmented, with no dedicated lustration law. Provisions that could facilitate vetting, such as those concerning integrity checks for public office, are weakly enforced and susceptible to political interference.

Furthermore, as seen in other post-conflict states analysed by Koko(2021), the security sector—a key target for vetting—often retains significant autonomous power, making top-down legalistic approaches fraught with risk. The strongest finding is that the primary mechanism for dealing with the past has been informal political negotiation, not formal legal procedure, creating a significant gap between the normative ideals of transitional justice and the on-the-ground realities of Malagasy politics.

Discussion

These findings underscore a critical tension in transitional justice theory when applied to contexts like Madagascar(Mandikwaza, 2022). The scholarly emphasis on legalism and institutional vetting, as discussed by Fischer(2011), often presupposes a level of state capacity and political consensus that is absent in fragmented post-crisis environments. The Malagasy case demonstrates that where the state is weak and political settlements are precarious, lustration is frequently perceived as a destabilising threat rather than a foundation for the rule of law.

This connects directly to Mandikwaza's(2022)insights from Zimbabwe, which highlight the potential role of grassroots mediation and traditional conflict resolution as complementary or even preliminary steps to formal legal processes. The implication for Madagascar is that a purely punitive, exclusionary lustration model is likely unviable and could reignite conflict. Instead, a more pragmatic approach may involve sequenced measures: beginning with transparent truth-telling about past roles and violations, followed by conditional reintegration based on demonstrated renunciation of violence and corruption, rather than immediate blanket disqualification.

This hybrid model acknowledges the need for some form of accountability while working within the constraints of elite bargaining and institutional fragility, offering a more realistic pathway toward reforming public institutions.

Conclusion

In answer to the core research problem, this analysis concludes that a conventional, legally rigid model of lustration is presently unworkable for Madagascar. The nation's repeated cycles of crisis and negotiated settlement have entrenched a political culture where elite accommodation takes precedence over judicial accountability. The article's contribution lies in delineating why this is the case, tracing the avoidance of vetting to a rational, if regrettable, prioritisation of immediate stability over transformative justice, a dynamic powerfully framed by Hearty's(2022)concept of 'presentist' memory-making.

The most practical implication for policymakers in Madagascar is that any future vetting process must be embedded within a broader, nationally owned strategy of security sector reform and

institutional strengthening, and must incorporate elements of restorative justice to build public legitimacy. A critical next step, therefore, is not to draft a lustration law in isolation, but to foster a inclusive national dialogue—informed by comparative lessons such as those from the Central African Republic(Koko, 2021)—that explicitly addresses the political trade-offs between justice and stability, and designs a context-sensitive framework that Malagasy society can sustainably support.

Contributions

This paper provides a novel empirical analysis of the legal and political challenges of implementing lustration measures in Madagascar, a context largely absent from the mainstream transitional justice literature. It contributes a critical evaluation of the proposed legal frameworks for vetting former combatants and regime officials during the 2021-2022 period, identifying specific constitutional and practical impediments to their enactment.

The study offers a structured, context-sensitive model for assessing the feasibility of such measures, thereby furnishing scholars and policymakers with a refined analytical tool for post-conflict institutional reform.

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