

Country/entity	Madagascar
Region	Africa (excl MENA)
Agreement name	Charte de la Transition
Date	9 Aug 2009
Agreement status	Multiparty signed/agreed
Interim arrangement	Yes
Agreement/conflict level	Intrastate/intrastate conflict

Malagasy Political Crisis (2009)

A conflict between Madagascar's elected president, Marc Ravalomanana, and an opposition movement led by the Mayor of the capital city Antananarivo, Andry Rajoelina, escalated in early 2009 when street protests and an uprising of parts of the military forced Ravalomanana to resign and go into exile in South Africa. A 2009 agreement called for a transitional government, however, Rajoelina, despite protests from Ravalomanana supporters and foreign governments, appointed a cabinet loyal to himself. The tensions were mediated in 2011 by a SADC mediation effort, which proposed a transitional roadmap that was eventually signed by all major political forces. However, after June 2012, the open conflict broke out once again.

Close

Malagasy Political Crisis (2009)

Stage	Framework/substantive - comprehensive
Conflict nature	Government
Peace process	Madagascar peace process
Parties	Rajoelina, Andry; Ratsiraka, Dider; Ravalomanana, Marc; Zafy, Albert;

Third parties	<p>Ont signé comme témoins:</p> <p>Pour l'Union Africaine Ablasse Ouedraogo</p> <p>Pour la SADC Joaquim Chissano, chef de l'Equipe Conjointe de Médiation pour Madagascar</p> <p>Pour l'Organisation Internationale de la Francophonie Edem Kodjo</p> <p>Pour les Nations Unies Tiébilé Dramé</p>
Description	An agreement cover multiple issues. In particular the agreement sets out transitional principles, the structure of transitional organs and institutions, amnesty measures, the status of former Heads of State, principles for the organisation of new elections, provisions to be included in the new constitution, international monitoring clauses, and some implementation measures.

Agreement document	MG_090809_Charte de la transition_tr.pdf (opens in new tab) Download PDF
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Agreement document (original language)	MG_090809_Charte de la Transition.pdf (opens in new tab)
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Groups

Children/youth	No specific mention.
Disabled persons	No specific mention.
Elderly/age	No specific mention.
Migrant workers	No specific mention.
Racial/ethnic/national group	No specific mention.
Religious groups	<p>Groups→Religious groups→Rhetorical</p> <p>Page 18, Chapter X – Signatories and entry into force of the Transitional Charter, Article 46</p> <p>The representatives of all the living forces of the Malagasy People (religious faiths, trade unions, the armed and security forces, businesses and organisations representing civil society) shall be invited to adhere to the present Transitional Charter.</p>

Indigenous people No specific mention.

Other groups No specific mention.

Refugees/displaced persons No specific mention.

Social class No specific mention.

Gender

Women, girls and gender No specific mention.

Men and boys No specific mention.

LGBTI No specific mention.

Family No specific mention.

State definition

Nature of state (general) Page 5, A. The Transitional President, Article 4
The President of the Transition shall:
• Be the symbol of national independence and territorial integrity;

State configuration No specific mention.

Self determination No specific mention.

Referendum No specific mention.

State symbols No specific mention.

Independence/secession No specific mention.

Accession/unification No specific mention.

Border delimitation No specific mention.

Cross-border provision No specific mention.

**Political
institutions (new or
reformed)**

Governance→Political institutions (new or reformed)→Temporary new institutions

Page 2, Chapter I – The Transitional Principles, Article 1

The political parties shall work towards a neutral, inclusive, peaceful and consensual transition, with a view to organising regular, fair, transparent, equitable and credible elections, and establishing stable democratic institutions.

Page 2, Chapter I – The Transitional Principles, Article 2

The purpose of the Transition is to:

- ensure the continuity of the State and respect its national and international commitments;
- re-establish order and security;
- initiate the truth and reconciliation process;
- design and set up state structures which genuinely satisfy the aspirations of the diverse components of the Malagasy People and guarantee the equitable distribution of wealth and economic, social, cultural and human development while respecting their diversity and unity;
- organise elections and consult the population (referendum on the constitution and presidential and legislative elections) before establishing a new constitutional act and setting up republican and democratic institutions.

Page 3, Chapter II – Transitional Organs and Institutions, Article 3

Upon signature of the present Charter, institutions to manage the State during the period of transition shall be established. This should be done no later than fifteen months from the date of signature of the present Charter. The transitional institutions shall be dissolved as and when the institutions planned in the new constitution are established. The transitional institutions and organs shall be guarantors of the normal functioning of the State. They consist of:

3.1 An executive organ including:

- The Transitional President, who shall carry out the functions of Head of State;
- The Transitional Vice-President;
- The Transitional Government of National Unity, led by a Prime Minister, Head of Government, and three Deputy-Prime Ministers in charge of ministerial portfolios, and including all the political tendencies of Madagascar;

3.2 A two-chamber legislative organ including:

- the Transitional Superior Council (le Conseil Supérieur de la Transition, CST) ;
- the Transitional Congress (le Congrès de la Transition, CT) ;

3.3 An organ responsible for national reconciliation : The National Reconciliation Committee (le Conseil nationale de réconciliation, CNR) ;

Page 4, Chapter II – Transitional Organs and Institutions, Article 3

3.4 Two consultative organs :

- The Economic and Social Committee (le Conseil Économique et Social, CES) ;
- The Committee for Reflection on Defence and National Security (le Comité de réflexion sur la Défense et la sécurité nationale, CRD SN).

3.5 A judicial organ: the Transitional High Court (la Haute Cour de la Transition, HCT);

3.6 An organ for the organisation and supervision of elections: the Independent National Electoral Commission (Commission électorale nationale indépendante, CENI).

The following institutions shall be replaced by the Transitional organs in accordance with the present charter:

- The Presidency of the Republic;
- The National Assembly;
- The Senate;
- The Constitutional High Court;

Elections

Page 2, Chapter I – The Transitional Principles, Article 1

The political parties shall work towards a neutral, inclusive, peaceful and consensual transition, with a view to organising regular, fair, transparent, equitable and credible elections, and establishing stable democratic institutions.

Page 2, Chapter I – The Transitional Principles, Article 2

The purpose of the Transition is to:

... - organise elections and consult the population (referendum on the constitution and presidential and legislative elections) before establishing a new constitutional act and setting up republican and democratic institutions.

Page 4, Chapter II – Transitional Organs and Institutions, Article 3

3.6 An organ for the organisation and supervision of elections: the Independent National Electoral Commission (Commission électorale nationale indépendante, CENI).

Page 6-7, B. The Transitional Government of National Unity, Article 7

The Prime Minister, Head of the Transitional Government of National Unity, shall:

... • Summon electors for the referendum on adoption of the new constitution, as well as for presidential and legislative elections.

Page 12, H. The Independent National Electoral Commission (CENI), Article 24

A National Independent Electoral Commission (CENI) shall be established. It shall be responsible for organising and supervising all electoral operations. It shall also be responsible for awareness-raising and education of the population relating to elections. It shall be composed of experienced, credible and competent individuals, of substantial integrity. CENI shall be established by the national conference.

Page 15, Chapter V – Organisation of elections, Article 33

The presidential and legislative elections shall be organised no later than fifteen months from the date of signature of the Transitional Charter, following an independent evaluation of Madagascar's capacity to organise the elections. This evaluation shall be carried out by national and international experts from the UA, SADC, OIF, the UN and the European Union.

Page 15, Chapter V – Organisation of elections, Article 34

During the period of transition, and throughout the electoral process, Madagascar shall benefit from the political, diplomatic, technical and financial support of the international community. National and international observers shall observe the elections in situ.

Page 16, Chapter VI – Drafting the new constitution, Article 35

... In addition, the Constitutional project shall include the following provisions:

- The President of the Republic shall be elected by universal direct suffrage for a five year mandate which may be renewed once;
- Any change to the Constitution affecting the organisation or functioning of public powers or the form of the State must be ratified by referendum.

A Constitutional project submitted to a referendum shall include the recommendations of the national conference organised by the National Reconciliation Committee.

Page 16, Chapter VII – International monitoring, Article 36

The international community, witness and guarantor of the commitments made within the framework of the Transitional Charter, shall be called upon to witness the transition process, including the organisation of elections.

Electoral commission	<p>Page 4, Chapter II – Transitional Organs and Institutions, Article 3</p> <p>3.6 An organ for the organisation and supervision of elections: the Independent National Electoral Commission (Commission électorale nationale indépendante, CENI).</p> <p>Page 12, H. The Independent National Electoral Commission (CENI), Article 24</p> <p>A National Independent Electoral Commission (CENI) shall be established. It shall be responsible for organising and supervising all electoral operations. It shall also be responsible for awareness-raising and education of the population relating to elections. It shall be composed of experienced, credible and competent individuals, of substantial integrity. CENI shall be established by the national conference.</p>
Political parties reform	No specific mention.
Civil society	<p>Page 10, E. The Economic and Social Committee (CES), Article 20</p> <p>Members of the CES proposed by civil society and by the parties shall be appointed by decree of the Transitional President.</p> <p>Page 18, Chapter X – Signatories and entry into force of the Transitional Charter, Article 46</p> <p>The representatives of all the living forces of the Malagasy People (religious faiths, trade unions, the armed and security forces, businesses and organisations representing civil society) shall be invited to adhere to the present Transitional Charter.</p>
Traditional/ religious leaders	<p>Page 18, Chapter X – Signatories and entry into force of the Transitional Charter, Article 46</p> <p>The representatives of all the living forces of the Malagasy People (religious faiths, trade unions, the armed and security forces, businesses and organisations representing civil society) shall be invited to adhere to the present Transitional Charter.</p>

**Public
administration**

No specific mention.

Constitution

Governance→Constitution→Constitutional reform/making

Page 1, PREAMBLE

... COMMITTED to ensuring that all Malagasy citizens thrive by adopting a new Constitution with a view to establishing the Fourth Republic of Madagascar;

Page 1, PREAMBLE

... UNDERTAKING to respect the principles of the separation and balance of powers, exercised by means of democratic processes and with respect for the rule of law;

Page 2, Chapter I – The Transitional Principles, Article 2

The purpose of the Transition is to:

... - organise elections and consult the population (referendum on the constitution and presidential and legislative elections) before establishing a new constitutional act and setting up republican and democratic institutions.

Page 6-7, B. The Transitional Government of National Unity, Article 7

The Prime Minister, Head of the Transitional Government of National Unity, shall:

... • Summon electors for the referendum on adoption of the new constitution, as well as for presidential and legislative elections.

Page 15-16, Chapter VI – Drafting the new constitution, Article 35

The Republic of Madagascar shall be provided with a new Constitution.

In addition, the Constitutional project shall include the following provisions:

- The President of the Republic shall be elected by universal direct suffrage for a five year mandate which may be renewed once;
- Any change to the Constitution affecting the organisation or functioning of public powers or the form of the State must be ratified by referendum.

A Constitutional project submitted to a referendum shall include the recommendations of the national conference organised by the National Reconciliation Committee.

Page 17, Chapter IX- General and temporary provisions, Article 42

The present Transitional Charter shall constitute the constitutional law of the transition.

Page 17, Chapter IX- General and temporary provisions, Article 43

All of the constitutional provisions, including laws and regulations, as well as those resulting from other legislation which do not contradict the present Charter shall remain in force and shall automatically apply.

Power sharing

Political power sharing

Power sharing→Political power sharing→Executive coalition
State level

Page 3, Chapter II – Transitional Organs and Institutions

...

3.1 An executive organ including:

- The Transitional President, who shall carry out the functions of Head of State;
- The Transitional Vice-President;
- The Transitional Government of National Unity, led by a Prime Minister, Head of Government, and three Deputy-Prime Ministers in charge of ministerial portfolios, and including all the political tendencies of Madagascar;

Page 6, Article 6

The Transitional Government of National Unity shall consist of a consensus Prime Minister, three Deputy Prime Ministers representing the political parties and 28 Ministers representing the political movements of Madagascar.

Power sharing→Political power sharing→Proportionality in legislature
State level

Page 3, Chapter II – Transitional Organs and Institutions

...

3.2 A two-chamber legislative organ including:

- the Transitional Superior Council (le Conseil Supérieur de la Transition, CST) ;
- the Transitional Congress (le Congrès de la Transition, CT) ;

Power sharing→Political power sharing→Other proportionality
State level

Page 12, G. The Transitional High Court (HCT), Article 23

... The HCT shall consist of 11 members with confirmed judicial experience and appointed according to the following rules of allocation:

- One member designated by the Transitional President;
- One member designated by the Transitional Superior Council;
- One member designated by the Transitional Congress;
- One member designated by the National Reconciliation Committee;
- Three members designated by the Magistracy Superior Council;
- Four members designated by the political parties (one representative per party).

Territorial power sharing

No specific mention.

Economic power sharing

No specific mention.

Military power sharing

Power sharing→Military power sharing→Proportionality

Page 11, F. The Committee for Reflection on Defence and National Security (CRDSN), Article 22

A consultative organ on questions of defence and national security shall be established, the Committee for Reflection on Defence and National Security (CRDSN). The CRDSN shall be responsible for leading a debate on questions of defence and national security, in particular on ways and means of reinforcing cohesion and discipline within the army and security forces, in order to build a republican army at the service of the nation. It shall consist of 8 members designated by the political parties (2 representatives per party).

Human rights and equality

Human rights/RoL general

Page 1, PREAMBLE

... RECOGNISING that the cyclical crises which have afflicted Madagascar since 1972, have hindered the development of the country and that it is important to establish a lasting foundation for a stable democratic republic, united in its diversity and respectful of Human Rights and fundamental liberties;

Page 1, PREAMBLE

... UNDERTAKING to respect the principles of the separation and balance of powers, exercised by means of democratic processes and with respect for the rule of law;

Page 6-7, B. The Transitional Government of National Unity, Article 7

The Prime Minister, Head of the Transitional Government of National Unity, shall:

... • Guarantee the maintenance of order and public security, while respecting fundamental liberties and Human Rights. To this end he shall be the Head of all forces of security and public order;

Page 11, G. The Transitional High Court (HCT), Article 23

The Transitional High Court shall ensure that the provisions of the present Charter are respected. It shall legislate on any contentious matters relating to referendum processes and the presidential and legislative elections or any other national election. It shall regulate any conflicts of competences between two or more State institutions or between the State and one or several local communities. It shall monitor respect for human rights and fundamental liberties as well as the implementation of international agreements which are binding on Madagascar.

Page 12, G. The Transitional High Court (HCT), Article 23

... The Transitional High Court shall legislate on whether laws and orders conform to the provisions in the present Charter. It shall also ensure the compatibility of this legislation as well as that enacted by the competent organs of decentralised authorities with the international treaties in force, particularly those designed to guarantee Human Rights and fundamental liberties.

Page 13, Chapter III: Amnesty measures and annulment of charges, • General principles governing the amnesty, Article 25

The National Reconciliation Committee shall propose a general amnesty law for adoption by the Transitional Congress, with the aim of political and social appeasement and support for the national reconciliation process. The amnesty law shall scrupulously respect the regulations, general principles and traditions of international law, as well as the current treaties or international agreements designed to suppress war crimes, acts of genocide and crimes against humanity. With respect to the same regulations and principles, the amnesty law shall neither apply to nor exonerate grave violations of Human Rights and of fundamental liberties, which are protected by regional and international instruments by which the Republic of Madagascar is bound. Nor shall it exonerate crimes and offences involving attacks on people's lives or physical integrity.

Bill of rights/similar No specific mention.

**Treaty
incorporation**

Page 11, G. The Transitional High Court (HCT), Article 23

The Transitional High Court shall ensure that the provisions of the present Charter are respected. It shall legislate on any contentious matters relating to referendum processes and the presidential and legislative elections or any other national election. It shall regulate any conflicts of competences between two or more State institutions or between the State and one or several local communities. It shall monitor respect for human rights and fundamental liberties as well as the implementation of international agreements which are binding on Madagascar.

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Page 13, Chapter III: Amnesty measures and annulment of charges, • General principles governing the amnesty, Article 25

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**Civil and political
rights**

Human rights and equality→Civil and political rights→Other

Page 14, Chapter III: Amnesty measures and annulment of charges, • Objective and coverage of the amnesty law, Article 29

Any person eligible for amnesty shall be released without delay, and shall retrieve his civil and political rights without further formalities.

**Socio-economic
rights**

No specific mention.

Rights related issues

Citizenship No specific mention.

Democracy

Page 1, PREAMBLE
... RECOGNISING that the cyclical crises which have afflicted Madagascar since 1972, have hindered the development of the country and that it is important to establish a lasting foundation for a stable democratic republic, united in its diversity and respectful of Human Rights and fundamental liberties;

Page 1, PREAMBLE
... UNDERTAKING to respect the principles of the separation and balance of powers, exercised by means of democratic processes and with respect for the rule of law;

Page 2, Chapter I – The Transitional Principles, Article 1
The political parties shall work towards a neutral, inclusive, peaceful and consensual transition, with a view to organising regular, fair, transparent, equitable and credible elections, and establishing stable democratic institutions.

Page 2, Chapter I – The Transitional Principles, Article 2
The purpose of the Transition is to:
... - organise elections and consult the population (referendum on the constitution and presidential and legislative elections) before establishing a new constitutional act and setting up republican and democratic institutions.

Detention procedures No specific mention.

Media and communication

Rights related issues→Media and communication→Media roles
Page 18, Chapter X – Signatories and entry into force of the Transitional Charter, Article 45
The present Transitional Charter shall enter into force from the date of signing, and in accordance with the provisions of Article 4 of Order 62-041 of September 19, 1962, shall be publicised by all possible means, in particular by radio and television broadcasts and bill boards, in addition to its entry in the Official Journal of the Republic of Madagascar. The ratification order of the present Charter shall be signed and published at the same time, under the same conditions.

Mobility/access No specific mention.

Protection measures No specific mention.

Other No specific mention.

Rights institutions

NHRI No specific mention.

Regional or international human rights institutions No specific mention.

Justice sector reform

Criminal justice and emergency law Justice sector reform→Criminal justice and emergency law→Reform to specific laws
Page 17, Chapter IX- General and temporary provisions, Article 43
All of the constitutional provisions, including laws and regulations, as well as those resulting from other legislation which do not contradict the present Charter shall remain in force and shall automatically apply.

State of emergency provisions Page 5, A. The Transitional President, Article 4 , The President of the Transition shall: ... ^{F9}₆₇
Proclaim a state of emergency, of national need or of martial law should circumstances require this for the defence of the Republic, public order or the security of the State, according to the conditions and procedures foreseen by law;

Page 9, C. The legislative organ, Article 14
The Presidents of the two chambers shall advise the Transitional President before any announcement of a state of emergency, state of national need or martial law, should circumstances require this for the defence of the Republic, public order or the security of the State.

**Judiciary and
courts**

Page 4, Chapter II – Transitional Organs and Institutions, Article 3
3.5 A judicial organ: the Transitional High Court (la Haute Cour de la Transition, HCT);

Page 6-7, B. The Transitional Government of National Unity, Article 7
The Prime Minister, Head of the Transitional Government of National Unity, shall:
... • Monitor the implementation of judicial decisions;

Page 11, G. The Transitional High Court (HCT), Article 23
The Transitional High Court shall ensure that the provisions of the present Charter are respected. It shall legislate on any contentious matters relating to referendum processes and the presidential and legislative elections or any other national election. It shall regulate any conflicts of competences between two or more State institutions or between the State and one or several local communities. It shall monitor respect for human rights and fundamental liberties as well as the implementation of international agreements which are binding on Madagascar.

Page 12, G. The Transitional High Court (HCT), Article 23
... The HCT shall consist of 11 members with confirmed judicial experience and appointed according to the following rules of allocation:
- One member designated by the Transitional President;
- One member designated by the Transitional Superior Council;
- One member designated by the Transitional Congress;
- One member designated by the National Reconciliation Committee;
- Three members designated by the Magistracy Superior Council;
- Four members designated by the political parties (one representative per party).
The President of the Transitional High Court shall be elected by his peers.
The Transitional High Court shall legislate on whether laws and orders conform to the provisions in the present Charter. It shall also ensure the compatibility of this legislation as well as that enacted by the competent organs of decentralised authorities with the international treaties in force, particularly those designed to guarantee Human Rights and fundamental liberties.
To this end, the Transitional High Court may be used by the Transitional President, the Prime Minister or one third of the members of the Transitional Congress or the Transitional Superior Council.

**Prisons and
detention**

No specific mention.

Traditional Laws

No specific mention.

Socio-economic reconstruction

Development or socio-economic reconstruction

Socio-economic reconstruction→Development or socio-economic reconstruction→Socio-economic development

Page 1, PREAMBLE

CONSIDERING that the current deterioration in the political situation threatens national unity and solidarity and endangers peace and security, social and economic development, and the stability of Madagascar;

Page 1, PREAMBLE

... CONVINCED of the need to exit from the political crisis, to re-establish social peace, to guarantee the security of people and property, to relaunch the economy and to restart the Administration by negotiation and consensus;

Page 1, PREAMBLE

... RECOGNISING that the cyclical crises which have afflicted Madagascar since 1972, have hindered the development of the country and that it is important to establish a lasting foundation for a stable democratic republic, united in its diversity and respectful of Human Rights and fundamental liberties;

Page 2, Chapter I – The Transitional Principles, Article 2

The purpose of the Transition is to:

... - design and set up state structures which genuinely satisfy the aspirations of the diverse components of the Malagasy People and guarantee the equitable distribution of wealth and economic, social, cultural and human development while respecting their diversity and unity;

Page 4, Chapter II – Transitional Organs and Institutions, Article 3

3.4 Two consultative organs :

- The Economic and Social Committee (le Conseil Économique et Social, CES);

Page 10, E. The Economic and Social Committee (CES), Article 19

The Economic and Social Committee shall be a consultative organ consisting of 72 members.

Page 10, E. The Economic and Social Committee (CES), Article 20

Members of the CES proposed by civil society and by the parties shall be appointed by decree of the Transitional President.

The CES shall be directed by a Permanent Office consisting of a President and a Vice-President assisted by a General Secretariat. All other aspects of its organisation shall be determined by internal regulations developed by its members.

Page 11, E. The Economic and Social Committee (CES), Article 21

The Economic and Social Council shall be responsible for making recommendations to the Government on economic and social policy and for establishing an equitable regional balance.

It shall be compulsorily consulted on draft finance laws.

National economic plan

No specific mention.

Natural resources No specific mention.

International funds Page 15, Chapter V – Organisation of elections, Article 33

The presidential and legislative elections shall be organised no later than fifteen months from the date of signature of the Transitional Charter, following an independent evaluation of Madagascar’s capacity to organise the elections. This evaluation shall be carried out by national and international experts from the UA, SADC, OIF, the UN and the European Union.

Page 15, Chapter V – Organisation of elections, Article 34

During the period of transition, and throughout the electoral process, Madagascar shall benefit from the political, diplomatic, technical and financial support of the international community. National and international observers shall observe the elections in situ.

Page 16, Chapter VII – International monitoring, Article 36

The international community, witness and guarantor of the commitments made within the framework of the Transitional Charter, shall be called upon to witness the transition process, including the organisation of elections.

Page 16, Chapter VII – International monitoring, Article 37

Should any party which is signatory to the commitments made under the terms of the present Charter, fail to observe them, the Joint Mediation Team for Madagascar shall be called upon to assist.

Business

Page 18, Chapter X – Signatories and entry into force of the Transitional Charter, Article 46

The representatives of all the living forces of the Malagasy People (religious faiths, trade unions, the armed and security forces, businesses and organisations representing civil society) shall be invited to adhere to the present Transitional Charter.

Taxation

No specific mention.

Banks

No specific mention.

Land, property and environment

Land reform/rights No specific mention.

**Pastoralist/
nomadism rights** No specific mention.

Cultural heritage No specific mention.

Environment No specific mention.

**Water or riparian
rights or access** No specific mention.

Security sector

Security Guarantees

Page 1, PREAMBLE

CONSIDERING that the current deterioration in the political situation threatens national unity and solidarity and endangers peace and security, social and economic development, and the stability of Madagascar;

Page 1, PREAMBLE

... CONVINCED of the need to exit from the political crisis, to re-establish social peace, to guarantee the security of people and property, to relaunch the economy and to restart the Administration by negotiation and consensus;

Page 2, Chapter I – The Transitional Principles, Article 2

The purpose of the Transition is to:

... - re-establish order and security;

Page 4, Chapter II – Transitional Organs and Institutions, Article 3

3.4 Two consultative organs :

... - The Committee for Reflection on Defence and National Security (le Comité de réflexion sur la Défense et la sécurité nationale, CRD SN).

Page 5, A. The Transitional President, Article 4

The President of the Transition shall:

... • Proclaim a state of emergency, of national need or of martial law should circumstances require this for the defence of the Republic, public order or the security of the State, according to the conditions and procedures foreseen by law;

Page 6-7, B. The Transitional Government of National Unity, Article 7

The Prime Minister, Head of the Transitional Government of National Unity, shall:

... • Guarantee the maintenance of order and public security, while respecting fundamental liberties and Human Rights. To this end he shall be the Head of all forces of security and public order;

Page 9, C. The legislative organ, Article 14

The Presidents of the two chambers shall advise the Transitional President before any announcement of a state of emergency, state of national need or martial law, should circumstances require this for the defence of the Republic, public order or the security of the State.

Page 11, F. The Committee for Reflection on Defence and National Security (CRDSN), Article 22

A consultative organ on questions of defence and national security shall be established, the Committee for Reflection on Defence and National Security (CRDSN). The CRDSN shall be responsible for leading a debate on questions of defence and national security, in particular on ways and means of reinforcing cohesion and discipline within the army and security forces, in order to build a republican army at the service of the nation. It shall consist of 8 members designated by the political parties (2 representatives per party).

Page 15, Chapter IV – Status of former Heads of State, Article 32

A special statute shall be developed which will accord the former Heads of State, including the Head of State of the Transition, the status due to their former rank, preserve their dignity and guarantee their security.

Page 16, Chapter VIII – A peaceful climate during the period of transition, Article 38

The parties shall maintain a climate of peace, serenity and confidence during the period of transition in order to ensure its success.

Ceasefire	No specific mention.
Police	<p>Page 5, A. The Transitional President, Article 4</p> <p>The President of the Transition shall:</p> <p>... • Be the Supreme Commander of the Armed Forces. For this purpose he shall appoint the senior leaders of the Army, the Gendarmerie and the National Police Force. He shall be in charge of the State General Inspectorate, the Army General Inspectorate, the Gendarmerie General Inspectorate and the Police General Inspectorate;</p>
Armed forces	<p>Page 5, A. The Transitional President, Article 4</p> <p>The President of the Transition shall:</p> <p>... • Appoint senior civilian and military employees, as well as those of organs relating to the State and the Council of Ministers;</p> <p>... • Be the Supreme Commander of the Armed Forces. For this purpose he shall appoint the senior leaders of the Army, the Gendarmerie and the National Police Force. He shall be in charge of the State General Inspectorate, the Army General Inspectorate, the Gendarmerie General Inspectorate and the Police General Inspectorate;</p> <p>Page 6-7, B. The Transitional Government of National Unity, Article 7</p> <p>The Prime Minister, Head of the Transitional Government of National Unity, shall:</p> <p>... • Without prejudicing the competences devolved to the Transitional President, as defined in Article 4 above, appoint State civilian and military employees to the Government Council. He shall have regulatory powers. Within this framework, he shall ensure the implementation of laws and orders;</p> <p>... • Appoint senior civilian and military employees, as well as those in organisations relevant to the State, to the Government Council, except for those foreseen in Article 4 of the present Charter;</p> <p>Page 11, F. The Committee for Reflection on Defence and National Security (CRDSN), Article 22</p> <p>A consultative organ on questions of defence and national security shall be established, the Committee for Reflection on Defence and National Security (CRDSN). The CRDSN shall be responsible for leading a debate on questions of defence and national security, in particular on ways and means of reinforcing cohesion and discipline within the army and security forces, in order to build a republican army at the service of the nation. It shall consist of 8 members designated by the political parties (2 representatives per party).</p> <p>Page 18, Chapter X – Signatories and entry into force of the Transitional Charter, Article 46</p> <p>The representatives of all the living forces of the Malagasy People (religious faiths, trade unions, the armed and security forces, businesses and organisations representing civil society) shall be invited to adhere to the present Transitional Charter.</p>
DDR	No specific mention.
Intelligence services	No specific mention.

Parastatal/rebel and opposition group forces	No specific mention.
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Withdrawal of foreign forces	No specific mention.
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Corruption	No specific mention.
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Crime/organised crime	No specific mention.
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Drugs	No specific mention.
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Terrorism	No specific mention.
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Transitional justice No specific mention.
general

Amnesty/pardon

Transitional justice→Amnesty/pardon→Amnesty/pardon proper

Page 13, Chapter III: Amnesty measures and annulment of charges, • General principles governing the amnesty, Article 25

The National Reconciliation Committee shall propose a general amnesty law for adoption by the Transitional Congress, with the aim of political and social appeasement and support for the national reconciliation process. The amnesty law shall scrupulously respect the regulations, general principles and traditions of international law, as well as the current treaties or international agreements designed to suppress war crimes, acts of genocide and crimes against humanity. With respect to the same regulations and principles, the amnesty law shall neither apply to nor exonerate grave violations of Human Rights and of fundamental liberties, which are protected by regional and international instruments by which the Republic of Madagascar is bound. Nor shall it exonerate crimes and offences involving attacks on people's lives or physical integrity.

Page 13, Chapter III: Amnesty measures and annulment of charges, • General principles governing the amnesty, Article 26

The amnesty law shall be based on strict respect of the principle of presumption of innocence. It shall definitively end judicial proceedings of any kind in all jurisdictions and courts. It shall bring to an end any public action. It shall annul any judgements and administrative sanctions of any kind whether definitively pronounced or not.

Page 13, Chapter III: Amnesty measures and annulment of charges, • Preparing and voting on the amnesty law, Article 27

A law project on the amnesty shall be developed by the political parties following the negotiations at the Carlton Hotel in Antananarivo and annexed to the present agreement. It shall be given priority in the agendas of the two chambers (CST and CT) for ratification during the first sessions.

Page 14, Chapter III: Amnesty measures and annulment of charges, • Objective and coverage of the amnesty law, Article 28

The amnesty law shall cover any violation, negligence or error, whatever its nature, objective or classification, committed during the exercise of their functions and duties by any person in a position of management or working for the State, as well as by opposition politicians, between January 1, 2002, and the date of signature of the present agreement.

Any administrative or legal proceedings, decisions, or judgements, relating to offences or events of a political nature presented as offences in common law, shall be null and void.

Page 14, Chapter III: Amnesty measures and annulment of charges, • Objective and coverage of the amnesty law, Article 29

Any person eligible for amnesty shall be released without delay, and shall retrieve his civil and political rights without further formalities.

Page 14, Chapter III: Amnesty measures and annulment of charges, • Objective and coverage of the amnesty law, Article 30

The amnesty law shall enter into force following its promulgation and publication in the official journal of Madagascar.

Transitional justice→Amnesty/pardon→Power to amnesty

Page 5, A. The Transitional President, Article 4

The President of the Transition shall:

... • Be the guarantor of independence and of justice and exercise the right of pardon in the Superior Council and the Magistracy;

Courts	No specific mention.
Mechanism	<p>Page 9-10, D. The National Reconciliation Committee (CNR), Article 17</p> <p>The CNR shall be responsible for designing and implementing the process of national reconciliation based on the concept of truth and reconciliation, for organising regional conferences and the national conference, and for revising and, when appropriate, preparing and legal texts and basic regulations on the refounding of the Republic. The CNR shall consist of 9 members including a President designated by the present Charter. For the other eight members the political parties shall each designate two members.</p> <p>Page 9-10, D. The National Reconciliation Committee (CNR), Article 18</p> <p>To this end, a Truth and Reconciliation Commission, a National Commission responsible for redrafting the Constitution and an organising committee for regional conferences and the national conference shall be set up.</p> <p>The Truth and Reconciliation Commission shall review all the events which have affected political, economic and social life in Madagascar.</p> <p>It shall study all questions relating to reparations, compensation and possible reconstitution of careers during the period under consideration.</p> <p>The organisation and functioning of the CNR shall be determined by an internal regulation adopted by its members.</p>
Prisoner release	No specific mention.
Vetting	No specific mention.
Victims	No specific mention.
Missing persons	No specific mention.

Reparations

Transitional justice→Reparations→Material reparations

Page 9-10, D. The National Reconciliation Committee (CNR), Article 18

... It shall study all questions relating to reparations, compensation and possible reconstitution of careers during the period under consideration.

The organisation and functioning of the CNR shall be determined by an internal regulation adopted by its members.

Page 14, Chapter III: Amnesty measures and annulment of charges, • Objective and coverage of the amnesty law, Article 31

Any person who was a victim of the political events between 2002 and the date of signature of the present agreement and suffered damages of any kind, shall be entitled to compensation and/or damages by the State, according to terms and conditions determined by the CNR.

Reconciliation

Page 1, PREAMBLE

... REAFFIRMING the wish of the political leaders to restore respect for the sociocultural values of the Malagasy People, in particular their fihavanana (kinship);

Page 1, PREAMBLE

... DETERMINED to implement the process of national reconciliation to assuage the individual and collective wounds that History has inflicted;

Page 2, Chapter I – The Transitional Principles, Article 2

The purpose of the Transition is to:

... - initiate the truth and reconciliation process;

Page 3, Chapter II – Transitional Organs and Institutions, Article 3

3.3 An organ responsible for national reconciliation : The National Reconciliation Committee (le Conseil nationale de réconciliation, CNR);

Page 9-10, D. The National Reconciliation Committee (CNR), Article 17

The CNR shall be responsible for designing and implementing the process of national reconciliation based on the concept of truth and reconciliation, for organising regional conferences and the national conference, and for revising and, when appropriate, preparing and legal texts and basic regulations on the refounding of the Republic. The CNR shall consist of 9 members including a President designated by the present Charter. For the other eight members the political parties shall each designate two members.

Page 9-10, D. The National Reconciliation Committee (CNR), Article 18

To this end, a Truth and Reconciliation Commission, a National Commission responsible for redrafting the Constitution and an organising committee for regional conferences and the national conference shall be set up.

The Truth and Reconciliation Commission shall review all the events which have affected political, economic and social life in Madagascar.

It shall study all questions relating to reparations, compensation and possible reconstitution of careers during the period under consideration.

The organisation and functioning of the CNR shall be determined by an internal regulation adopted by its members.

Page 13, Chapter III: Amnesty measures and annulment of charges, • General principles governing the amnesty, Article 25

The National Reconciliation Committee shall propose a general amnesty law for adoption by the Transitional Congress, with the aim of political and social appeasement and support for the national reconciliation process. The amnesty law shall scrupulously respect the regulations, general principles and traditions of international law, as well as the current treaties or international agreements designed to suppress war crimes, acts of genocide and crimes against humanity. With respect to the same regulations and principles, the amnesty law shall neither apply to nor exonerate grave violations of Human Rights and of fundamental liberties, which are protected by regional and international instruments by which the Republic of Madagascar is bound. Nor shall it exonerate crimes and offences involving attacks on people's lives or physical integrity.

Page 16, Chapter VI – Drafting the new constitution, Article 35

... A Constitutional project submitted to a referendum shall include the recommendations of the national conference organised by the National Reconciliation Committee.

Implementation

UN signatory UN representative signs as witness - Pour les Nations Unies Tiebile Drame

Other international signatory No specific mention.

Referendum for agreement No specific mention.

International mission/force/similar No specific mention.

Enforcement mechanism Page 12, G. The Transitional High Court (HCT), Article 23
... The Transitional High Court shall legislate on whether laws and orders conform to the provisions in the present Charter. It shall also ensure the compatibility of this legislation as well as that enacted by the competent organs of decentralised authorities with the international treaties in force, particularly those designed to guarantee Human Rights and fundamental liberties.

Page 16, Chapter VII – International monitoring, Article 36
The international community, witness and guarantor of the commitments made within the framework of the Transitional Charter, shall be called upon to witness the transition process, including the organisation of elections.

Page 16, Chapter VII – International monitoring, Article 37
Should any party which is signatory to the commitments made under the terms of the present Charter, fail to observe them, the Joint Mediation Team for Madagascar shall be called upon to assist.

Page 17, Chapter IX- General and temporary provisions, Article 41
The procedures for implementing and applying the present Charter shall be determined, by adopted laws or orders, or failing this, by decree.

Related cases No specific mention.

Source UN Peacemaker, https://peacemaker.un.org/sites/peacemaker.un.org/files/MG_090809_Charte%20de%20la%20Transition.pdf
