

# Connecting the Dots: Exploring Transitional Justice's Impact on Sexual- and Gender-based Violence against Women

Maxine Rubin and Hugo van der Merwe  
Centre for the Study of Violence and Reconciliation (CSVr)  
mrubin@csvr.org.za

## Transitional Justice and Gender

The impact of transitional justice on promoting sustainable peace in post-conflict contexts lacks support from empirical research. Gender justice – a critical component of durable peace – has typically been narrowly pursued within transitional justice processes. The main element of gender justice addressed in these processes has been sexual- and gender-based violence against women (SGBVAW). CSVr explored if particular dimensions (core characteristics) of transitional justice processes are more likely to positively contribute toward SGBVAW outcomes.

SGBVAW has mainly been used in transitional justice to refer to physical and sexual violence (and the threat thereof) perpetrated against cisgender women.

The dimensions of transitional justice refer to the nature or key characteristics of a transitional justice process. The dimensions identify significant distinctions in how the transitional justice processes have been designed and/or implemented.

## Aim

To develop and test an analytical framework for understanding the impact pathways of transitional justice and to explore the impact pathways between the dimensions of transitional justice and SGBVAW outcomes in 13 African cases that had state-led transitional justice processes between 1990 and 2011.

## Methodology

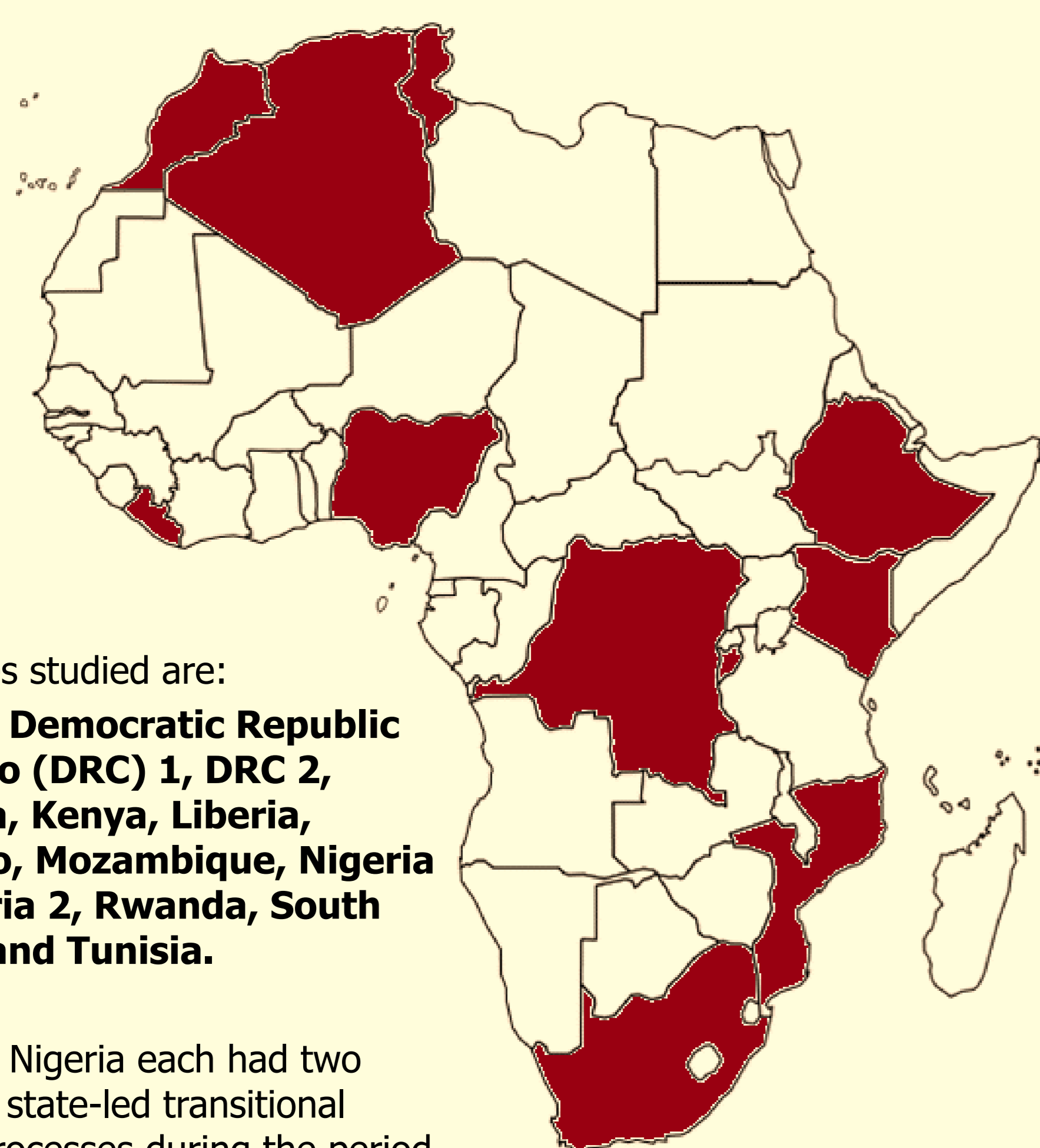
An exploratory approach was used to surface the trends across 13 African cases that had state-led transitional justice processes between 1990 and 2011.

Dichotomous categories for all the variables were constructed where possible to cross tabulate the independent and dependent variables: the dimensions of transitional justice and SGBVAW outcomes. The data used were drawn from expert inputs and case reports from CSVr's Comparative Study of Transitional Justice in Africa project and triangulated with additional sources.

**Independent variable:** five dimensions of transitional justice were identified: (1) selective versus impartial application of transitional justice; (2) autonomous versus state dependent transitional justice processes; (3) intensity versus weakness of material transitional justice measures; (4) gender inclusive versus gender exclusive transitional justice mandates; and (5) the normative approach to transitional justice.

**Dependent variable:** SGBVAW outcomes refers to state measures taken to address SGBVAW. Cases were split into (a) states that have committed to addressing SGBVAW; and (b) states that have not committed to addressing SGBVAW.

## Case Selection



The cases studied are: **Algeria, Democratic Republic of Congo (DRC) 1, DRC 2, Ethiopia, Kenya, Liberia, Morocco, Mozambique, Nigeria 1, Nigeria 2, Rwanda, South Africa, and Tunisia.**

DRC and Nigeria each had two separate state-led transitional justice processes during the period studied.

## Results

Three of the five dimensions of transitional justice were correlated with SGBVAW outcomes: autonomous versus state dependent transitional justice processes; gender inclusive versus gender exclusive transitional justice mandates; and the normative approach to transitional justice.

Cross tabulation of initial autonomy/state dependence of transitional justice processes with SGBVAW outcomes

	States committed to addressing SGBVAW	States not committed to addressing SGBVAW
<b>Autonomous</b>	<ul style="list-style-type: none"> <li>Kenya</li> <li>Liberia</li> <li>South Africa</li> <li>Tunisia</li> </ul>	
<b>State Dependent</b>	<ul style="list-style-type: none"> <li>Mozambique</li> <li>Rwanda</li> </ul>	<ul style="list-style-type: none"> <li>Algeria</li> <li>DRC 1</li> <li>DRC 2</li> <li>Ethiopia</li> <li>Morocco</li> <li>Nigeria 1</li> <li>Nigeria 2</li> </ul>

Cross tabulation of gender inclusive versus gender exclusive transitional justice mandates of TJ processes with SGBVAW outcomes

	States committed to addressing SGBVAW	States not committed to addressing SGBVAW
<b>Gender Inclusive</b>	<ul style="list-style-type: none"> <li>Kenya</li> <li>Liberia</li> <li>Rwanda</li> <li>Tunisia</li> </ul>	
<b>Gender Exclusive</b>	<ul style="list-style-type: none"> <li>South Africa</li> <li>Mozambique</li> </ul>	<ul style="list-style-type: none"> <li>Algeria</li> <li>DRC 1</li> <li>DRC 2</li> <li>Ethiopia</li> <li>Morocco</li> <li>Nigeria 1</li> <li>Nigeria 2</li> </ul>

Cross tabulation of initial normative approach to transitional justice processes with SGBVAW outcomes

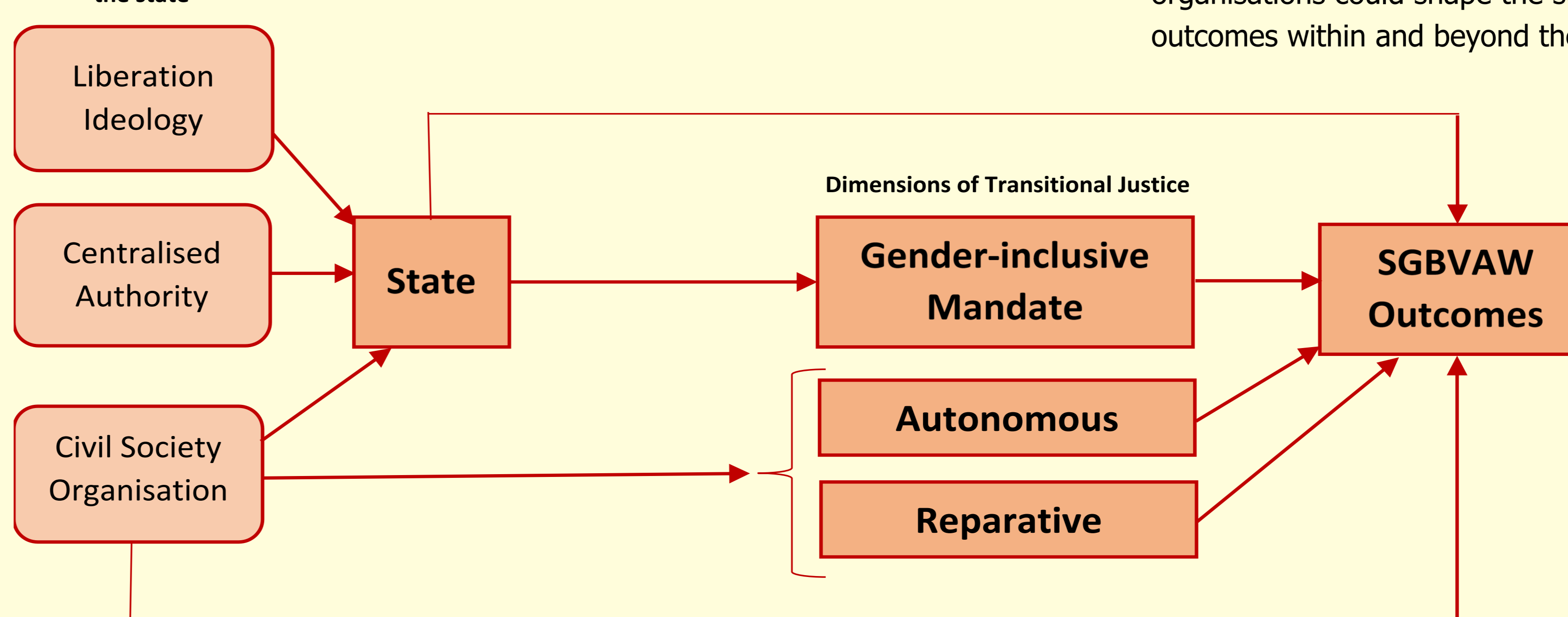
	States committed to addressing SGBVAW	States not committed to addressing SGBVAW
<b>Reparative</b>	<ul style="list-style-type: none"> <li>Kenya</li> <li>Liberia</li> <li>South Africa</li> <li>Tunisia</li> </ul>	<ul style="list-style-type: none"> <li>Morocco</li> </ul>
<b>Punitive</b>	<ul style="list-style-type: none"> <li>Rwanda</li> </ul>	<ul style="list-style-type: none"> <li>DRC 1</li> <li>DRC 2</li> <li>Ethiopia</li> <li>Nigeria 1</li> </ul>
<b>Amnesia</b>	<ul style="list-style-type: none"> <li>Mozambique</li> </ul>	<ul style="list-style-type: none"> <li>Algeria</li> <li>Nigeria 2</li> </ul>

## Conclusion

The figure below summarises the findings about the impact pathways between the dimensions of transitional justice and positive SGBVAW outcomes.

Transitional justice processes with gender-inclusive mandates presents the most direct pathway to positively impacting upon SGBVAW outcomes. Such processes indicate that these states have prioritised SGBVAW from the onset, since they incorporated a gendered perspective within the design of their transitional justice process. The SGBVAW findings from the transitional justice process ensure that a public record about the crimes is established. Consequently, these findings could the shape state's SGBVAW policies and responses. However, states could also directly impact upon SGBVAW outcomes irrespective of a transitional justice process. A state might identify SGBVAW as a general policy priority and consequently institute SGBVAW measures without using transitional justice as a means toward this end.

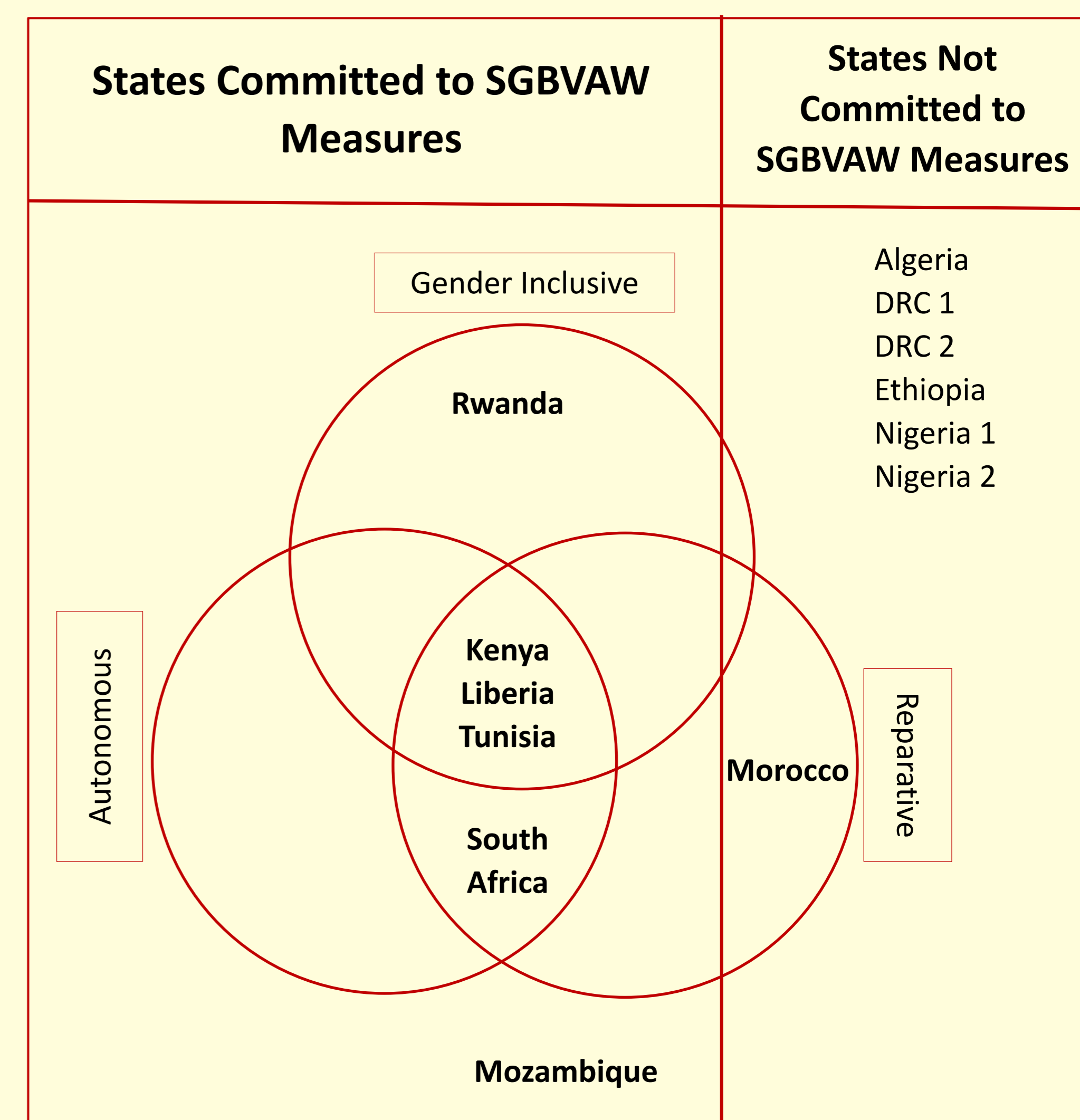
Factors influencing the state



## Summary of Findings

CSVr's study suggests that processes that had a gender-inclusive mandate, that were free from state interference (autonomous), and/or emphasized repairing relationships were more likely to see improved SGBVAW outcomes. The results from the study suggest that some aspects of transitional justice design appear to lend themselves more directly to positive SGBVAW outcomes.

The way that these positive outcomes are realised involves complex interactions and are often indirect. It also seems that the potential positive impacts that transitional justice can make on SGBVAW outcomes depends to some degree on human rights groups in cases where the state has not explicitly prioritized SGBVAW and gender justice. Transitional justice could potentially contribute toward positive SGBVAW outcomes, but this is not guaranteed.



The data suggested that there are other indirect impact pathways toward SGBVAW outcomes. Civil society (and others), where they are given the scope, can engage even with gender exclusive transitional justice processes to secure positive SGBVAW outcomes. Transitional justice processes that are autonomous have the freedom to explore human rights violations in a somewhat open-ended way (so far as their mandates allow). This means that a gender exclusive transitional justice process could still surface SGBVAW findings when they are allowed sufficient freedom from external control. It also suggests the transitional justice processes' activities could be adapted in response to advocacy efforts from survivors and advocacy groups.

Reparative transitional justice processes also emerged as a component of a more indirect pathway toward positively impacting upon SGBVAW outcomes. Reparative approaches emphasise healing and restorative justice. Thus, transitional justice processes that uncovered SGBVAW findings could potentially recommend that the state take reparative measures in response to these findings. Particularly, the approach's emphasis upon participatory and survivor-oriented processes seemed to be significant attributes toward this end.

In addition to transitional justice, three alternative impact pathways to positive SGBVAW outcomes emerged: a ruling party's commitment to egalitarianism as part of its liberation ideology, a state's ability to manage social change in a centralised manner, and civil society organisations could shape the state's decision to prioritise SGBVAW outcomes within and beyond the transitional justice process.