

Global Landscape of HIV Decriminalization Laws with a Focus on African Countries

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Background

The criminalization of HIV transmission/exposure imposes criminal penalties on individuals who are HIV positive and engage in sexual conduct that may or may not potentially expose others to HIV. Such punitive legal environments deter people living with HIV (PLHIV) from seeking healthcare out of fear of opening themselves to prosecution, and fail to recognize the effectiveness of HIV treatment, the impact of stigma and discrimination on the lives of PLHIV. While evidence of premeditated malicious intent to transmit HIV should be punished, such instances are very rare. Removing criminal penalties for non-intentional HIV transmission/exposure aligns with UNAIDS 10-10-10 goals, and will propel nations towards the goal of less than 10% of countries having criminalizing laws by 2025. This study draws comparisons between the global HIV decriminalization legislative landscape and those specific to African countries.

Methods

This study utilized data from the HIV Policy Lab, a comprehensive database covering 194 countries, to examine policy status related to HIV decriminalization. The database benchmarks HIV criminalization laws against global recommendations set by the WHO and UNAIDS, that are also in line with 'Not a Criminal Campaign' launched by GNP+ among others and categories them based on alignment. Comparative analysis was conducted to identify the state of national law and its enforcement.

- "Adopted" refers to countries where laws only penalize deliberate transmission and there have been no related arrests or prosecutions.
- "Partially Adopted" is when a country has laws criminalizing HIV transmission but does not enforce them, or conversely—a country has no such laws but in practice still makes arrests or prosecutes related to HIV transmission.
- "Not adopted" refers to countries that actively enforce their existing criminal provisions related to HIV transmission or exposure, as evidenced by arrests and prosecutions.

Results

Our preliminary findings using the HIV Policy Lab coding indicates that globally 37% of the studied countries (N=194) have adopted HIV transmission/exposure decriminalization, while 41% have partially adopted it.

- Our analysis of the African region is as follows: 42.5% of the 54 studied African countries have adopted HIV transmission/exposure decriminalization, 42.5% have partially adopted it, and 14.8% have not adopted it at all.
- Among African countries that criminalize non-intentional HIV transmission/exposure our preliminary findings suggest that 75% do not actively enforce national policy.

Figure 3: Countries that criminalize non-intentional HIV exposure in 54 African Countries

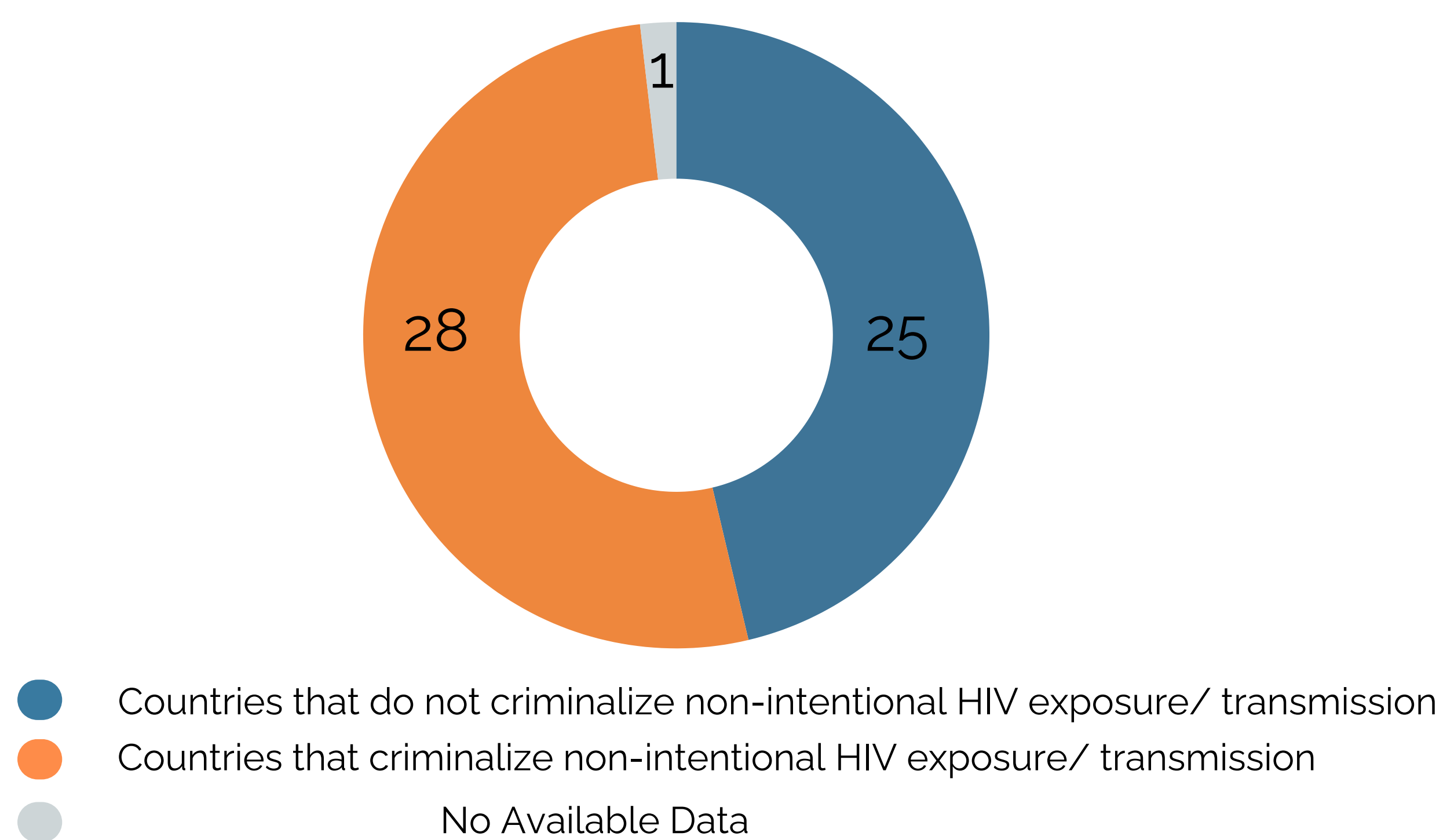


Figure 1: Adoption Status of indicator for HIV exposure/transmission decriminalization across Global and African Regions

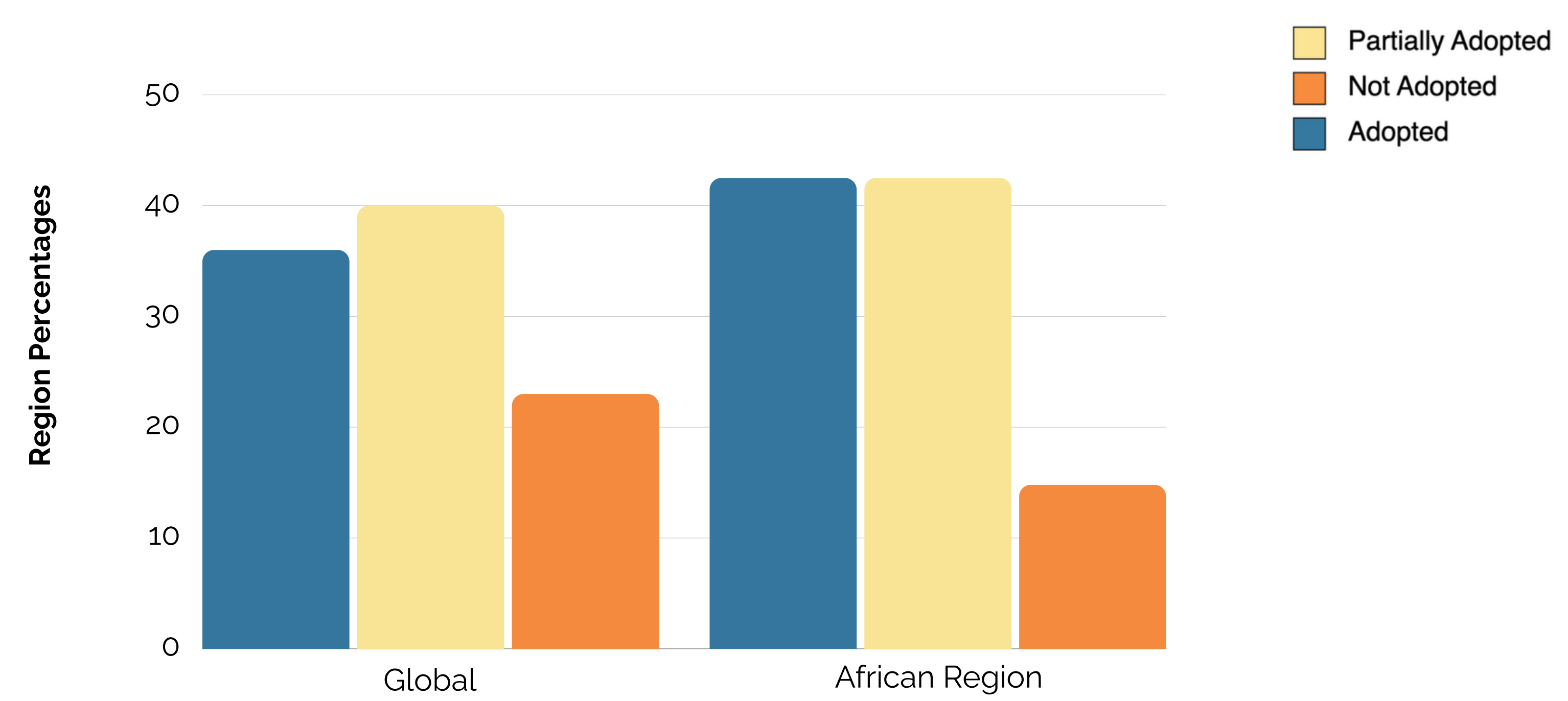
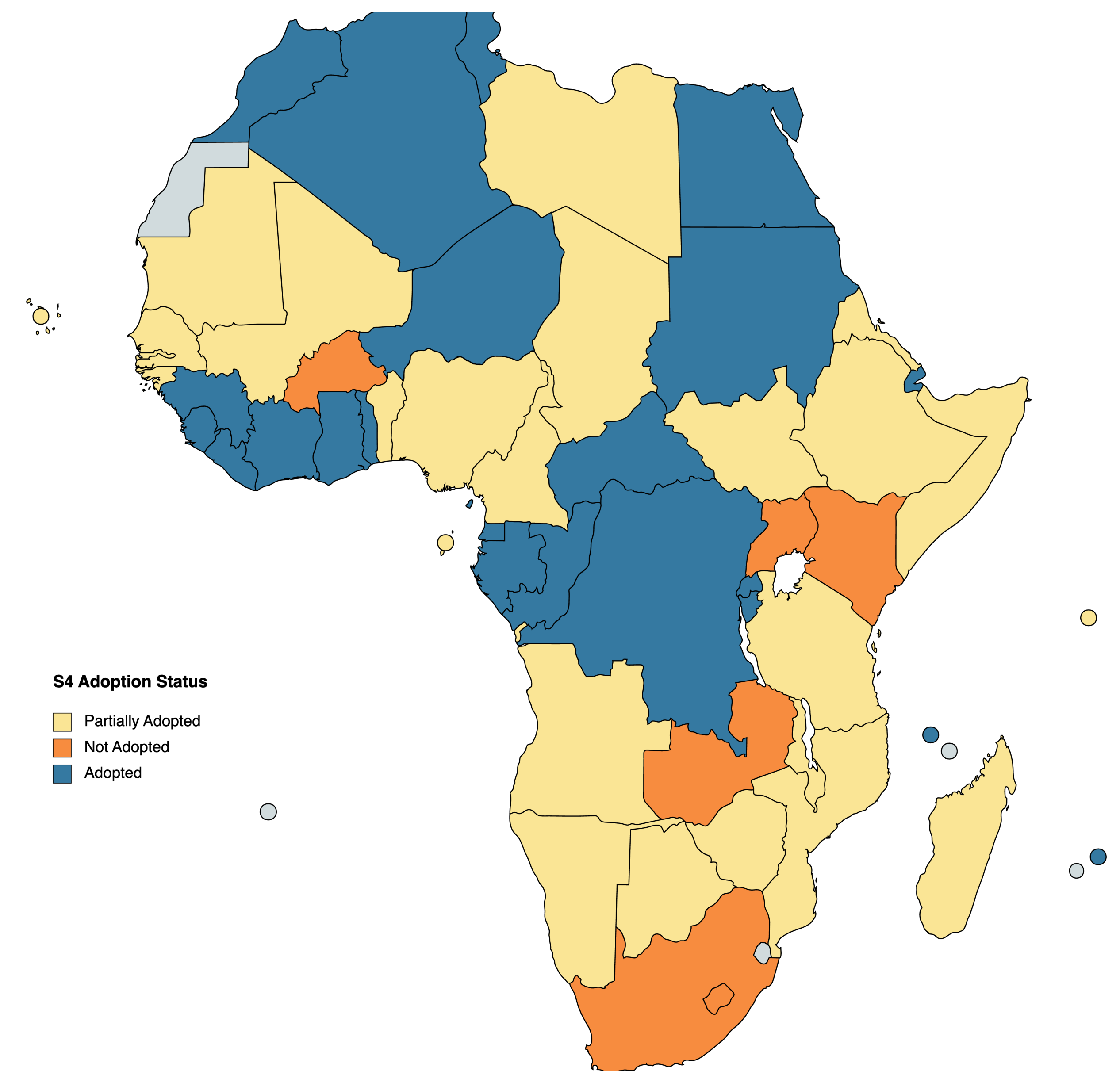


Figure 2: Map of African region presenting adoption status of HIV exposure/transmission criminalization indicator



Conclusions

- Our preliminary findings suggest that African countries are progressing toward the decriminalization of HIV transmission/exposure.
- There is low enforcement in countries where transmission/exposure is criminalized.
- This study underscores the potential for accelerating such efforts and strengthening advocacy for further HIV transmission/exposure decriminalization in African countries.