

Background

As of this year, two-thirds of the countries in the world do not criminalize consensual same-sex sex - a clear reversal of trends from the start of the AIDS pandemic.

While recent years has seen a strong global trend toward decriminalization, including in sub-Saharan Africa, many countries in sub-Saharan Africa have countered this trend and deepened criminalization measures on same-sex sexuality making this an important moment for engagement where policy is out of step with global trends.

Methodology

Georgetown University's HIV Policy Lab (HPL) is a research and accountability platform that tracks 33 evidence-based laws/policies and their adoption status across 194 countries.

On criminalization of consensual same-sex sexual acts, the HIV Policy Lab tracks whether countries around the world, including those in the sub-Saharan Africa are fully, partially, or not aligned with global guidance, and codes them as "Adopted", "Partially Adopted" and "Not Adopted". This coding schema and measurement is performed using an indicator with two elements:

1) The first element is a measure of the de jure content of the law, as written, and whether national law refrains from criminalizing consensual same-sex sexual acts.

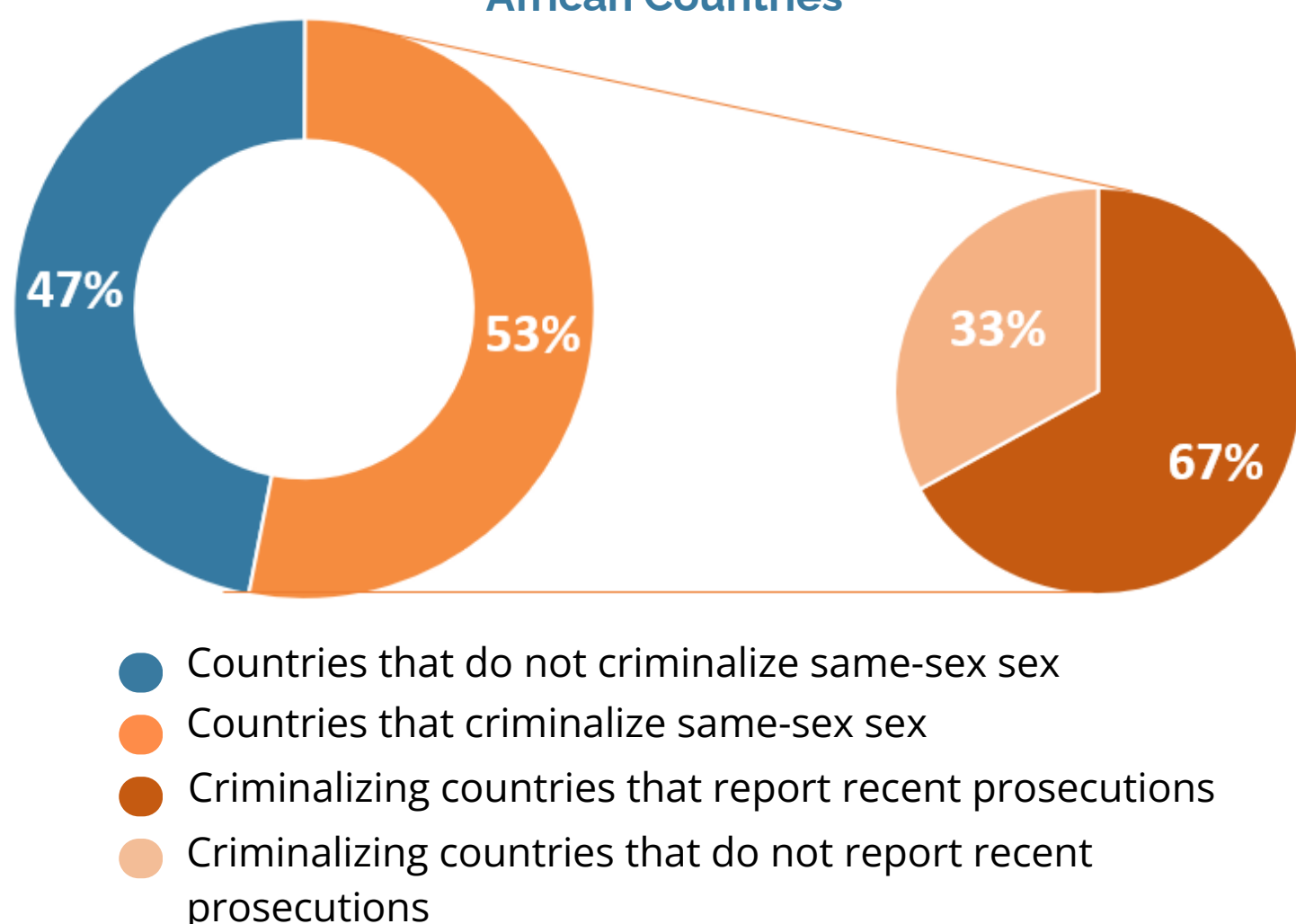
2) The second element is a measure of whether a country's policy is to avoid prosecuting people for same-sex sexual activity.

Data for this indicator is obtained through the ILGA database, UNAIDS' NCPI and other research conducted by the HIV Policy Lab

Results

In the past 7 years, 13 countries have decriminalized same-sex sexuality, including four countries from the sub-Saharan African (SSA) region - Mauritius, Botswana, Angola and the Gabon. The fastest progress toward decriminalization is seen in the Caribbean region, followed by the Eastern and Southern African region

Figure 1: Countries that criminalize consensual same-sex sex and evidence of policy enforcement of criminalizing laws in 46 sub-Saharan African Countries



Results (contd)

Figure 2: Map presenting the adoption status of the indicator for same-sex sex criminalization in Sub-Saharan Africa

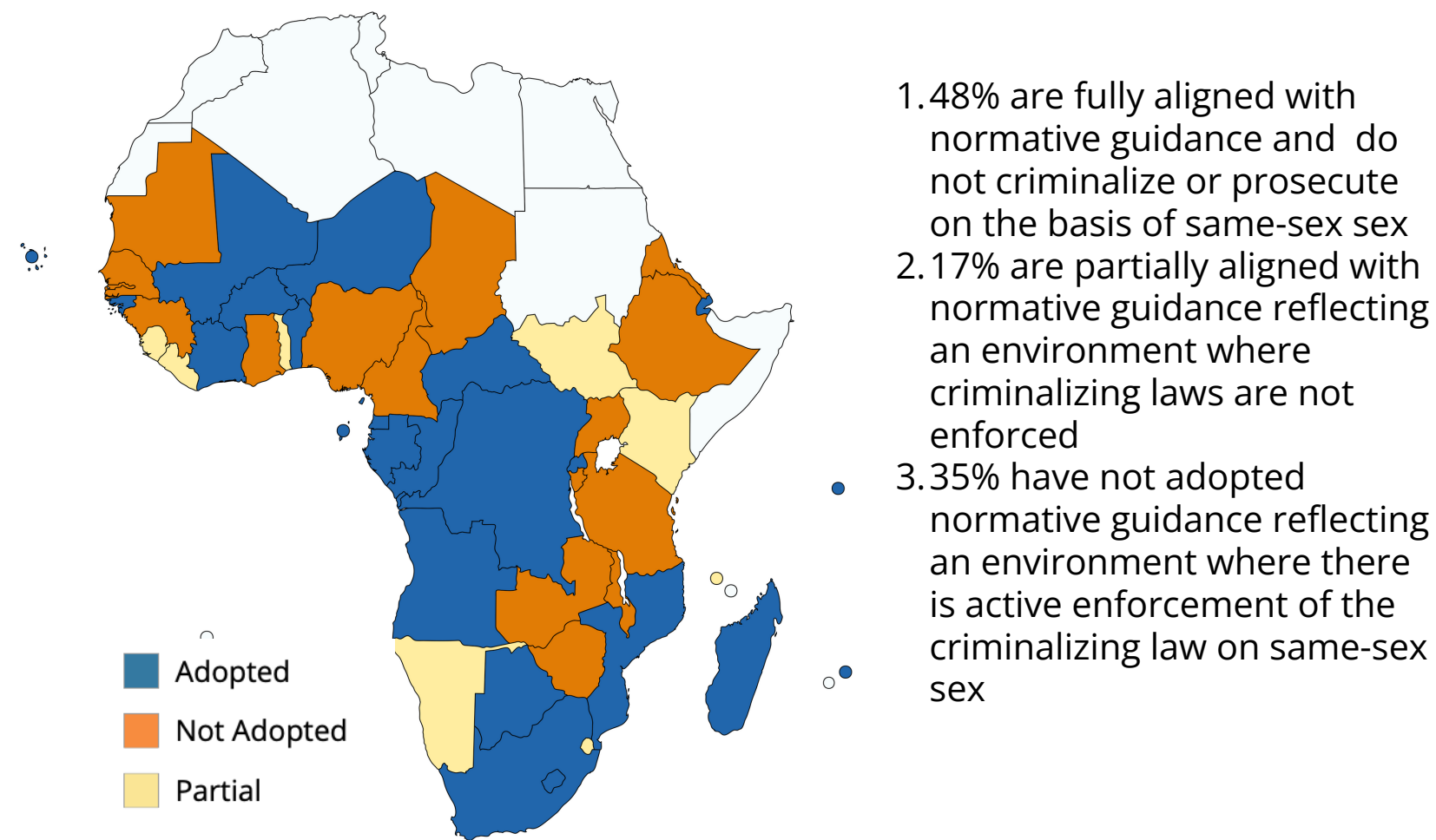
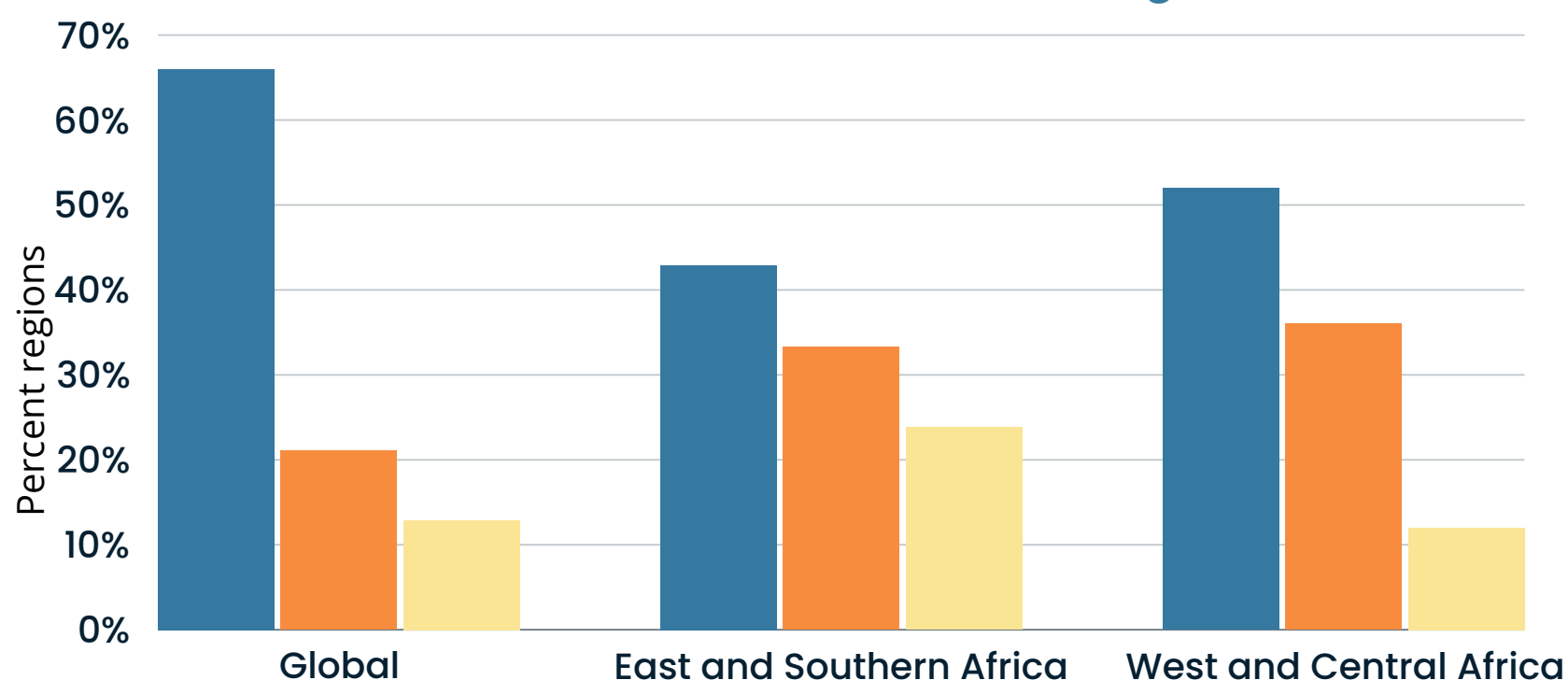


Figure 3: Adoption status of the indicator for same-sex sex criminalization across Global, Eastern and Southern African and West and Central African regions



Discussion

- **Criminalization has deep public health impact:** Research using HIV Policy Lab data show that the differences in HIV prevalence between MSM other adult men was higher in countries that criminalize than in countries that do not-criminalize same-sex sex [1].
- **There are clear opportunities for decriminalization:** 33% of SSA countries that criminalize do not report recent prosecutions.
- **Peril amidst progress:** Much of the momentum calling for deepening criminalization is coming through coordinated global political networks and funding using protection of "family" or "children" as the entry points
- **Concerted efforts are necessary for change:** An aligned mix of change-makers and advocates within government, the judicial system, and civil society is essential for law reform

1. Lyons CE, Twahirwa Rwema JO, Makofane K, Diouf D, Mfochive Njindam I, Ba I, et al. Associations between punitive policies and legal barriers to consensual same-sex sexual acts and HIV among gay men and other men who have sex with men in sub-Saharan Africa: a multicountry, respondent driven sampling survey. Lancet HIV. 2023 Mar;10(3):e186-94.

