

National Study of Public Attitudes on Forced Arbitration

Findings from a Survey of 800 Likely
2010 Voters Nationwide

April 2009

Research funded by:



Public Welfare
FOUNDATION

Methodology

Lake Research Partners designed and administered this survey, which was conducted by telephone using professional interviewers. The survey reached 800 adults nationwide, 18 years or older, who are registered and likely to vote in the 2010 elections. The survey was conducted between March 29th and April 2nd, 2009. The overall margin of error for this poll is +/-3.5%.

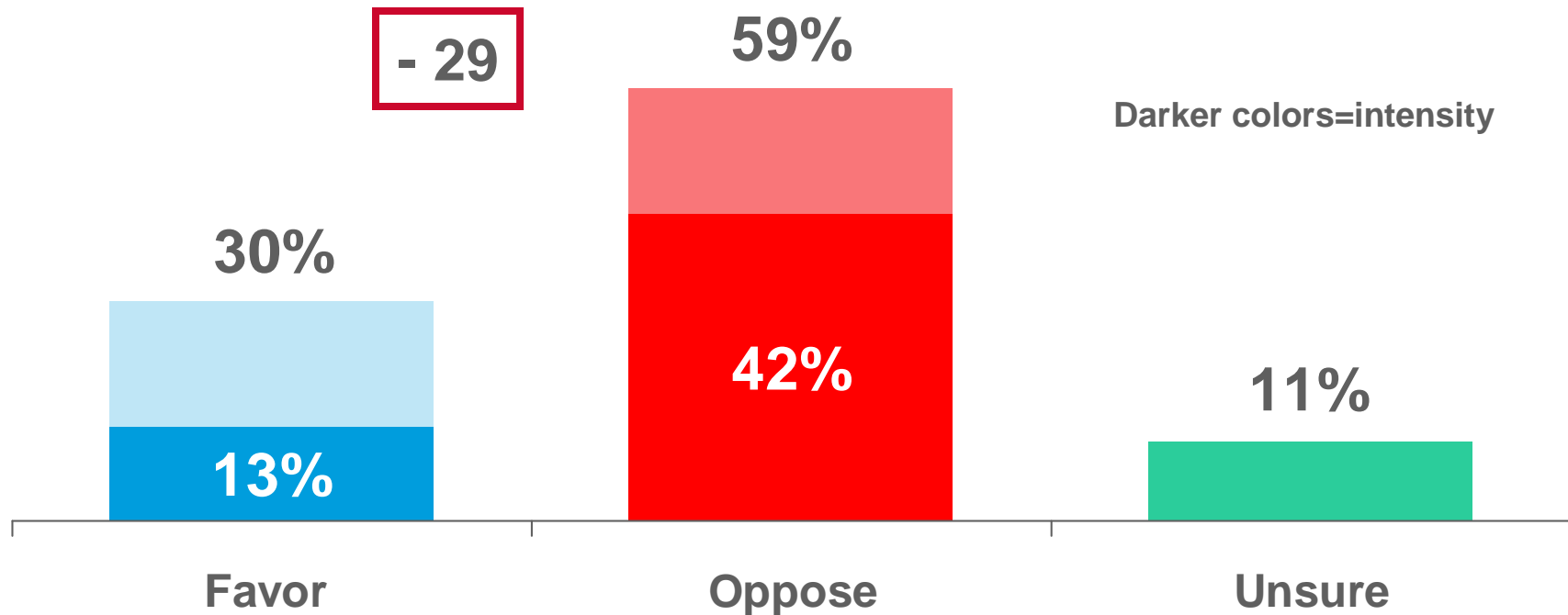
This research was commissioned by The Employee Rights Advocacy Institute For Law & Policy and Public Citizen, and funded by the Public Welfare Foundation.

Summary

- A solid majority of Americans (59%) opposes forced arbitration clauses in the fine print of employment and consumer contracts, including majorities of men, women, Democrats, independents, and Republicans.
- Similarly strong majorities (59%) support the Arbitration Fairness Act. Support for the Act also crosses traditional gender and political divides.
- Even after voters hear arguments in favor of, and opposed to, forced arbitration, opposition to the practice holds firm. Just one-third of the electorate supports the practice.
- Roughly three-quarters of Americans believe they can sue an employer or company should they be seriously harmed or have a major dispute arise – even if they are bound by forced arbitration terms.
- Most Americans are unaware of the rights being taken away from them. Approximately two-thirds cannot remember seeing anything about forced arbitration in either Terms of Employment or Terms of Agreement for goods and services.

Opposition to forced arbitration is strong and intense, and crosses traditional gender and partisan lines.

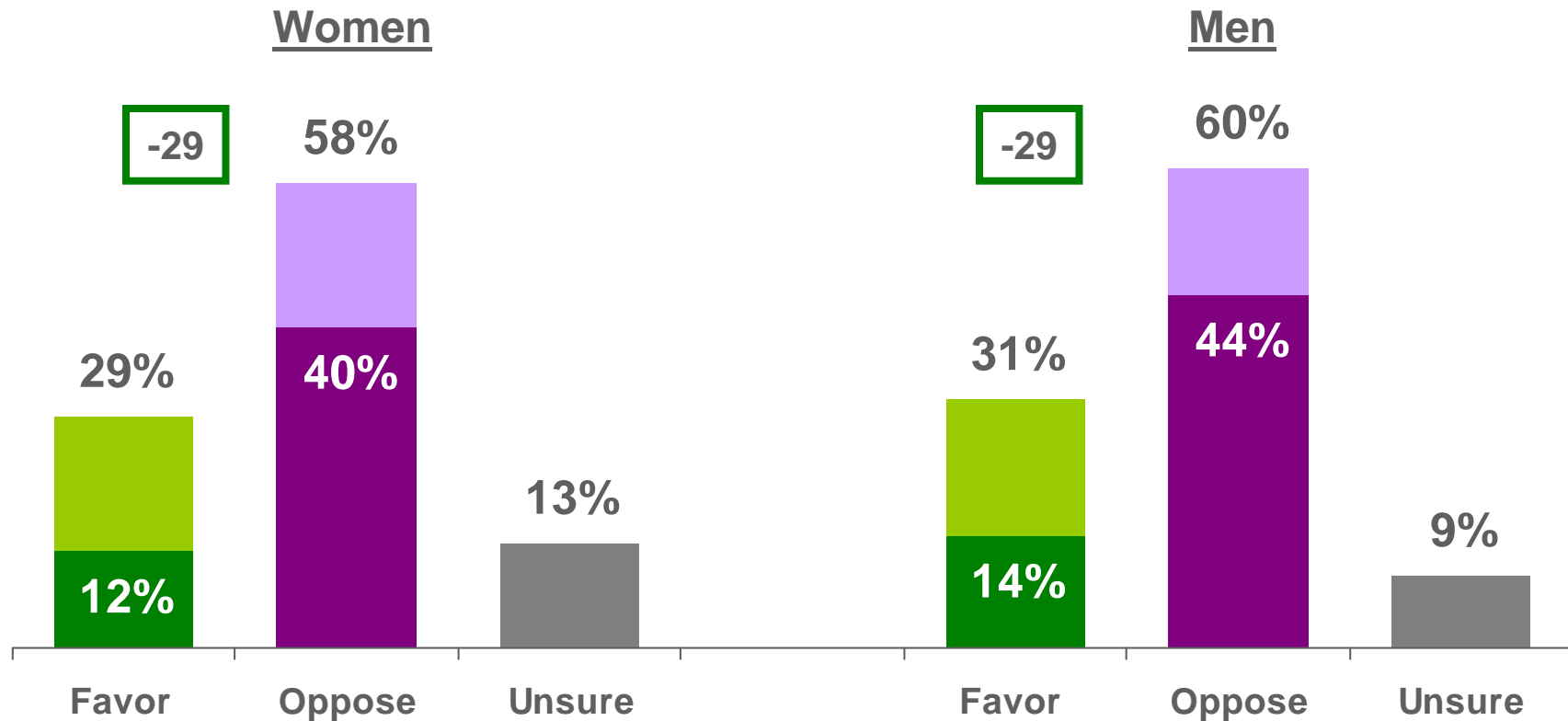
FAVOR / OPPOSE BINDING MANDATORY ARBITRATION



Next I'm going to read you a short description of binding mandatory arbitration. Binding mandatory arbitration requires both sides to submit any future disputes to binding arbitration as a condition of having a job or buying a product or service. Binding mandatory arbitration is written into many Terms of Employment and Terms of Agreement for goods and services that you buy, including for insurance, home-building, car loans and leases, credit cards, retirement accounts, investment accounts, and nursing facilities, to name a few. Binding mandatory arbitration means that employees and consumers waive their rights to sue, to participate in class-action lawsuits, or to appeal. Having heard that, do you favor or oppose binding mandatory arbitration, or are you unsure?

Both men and women strongly oppose forced arbitration, and there is real intensity to this view.

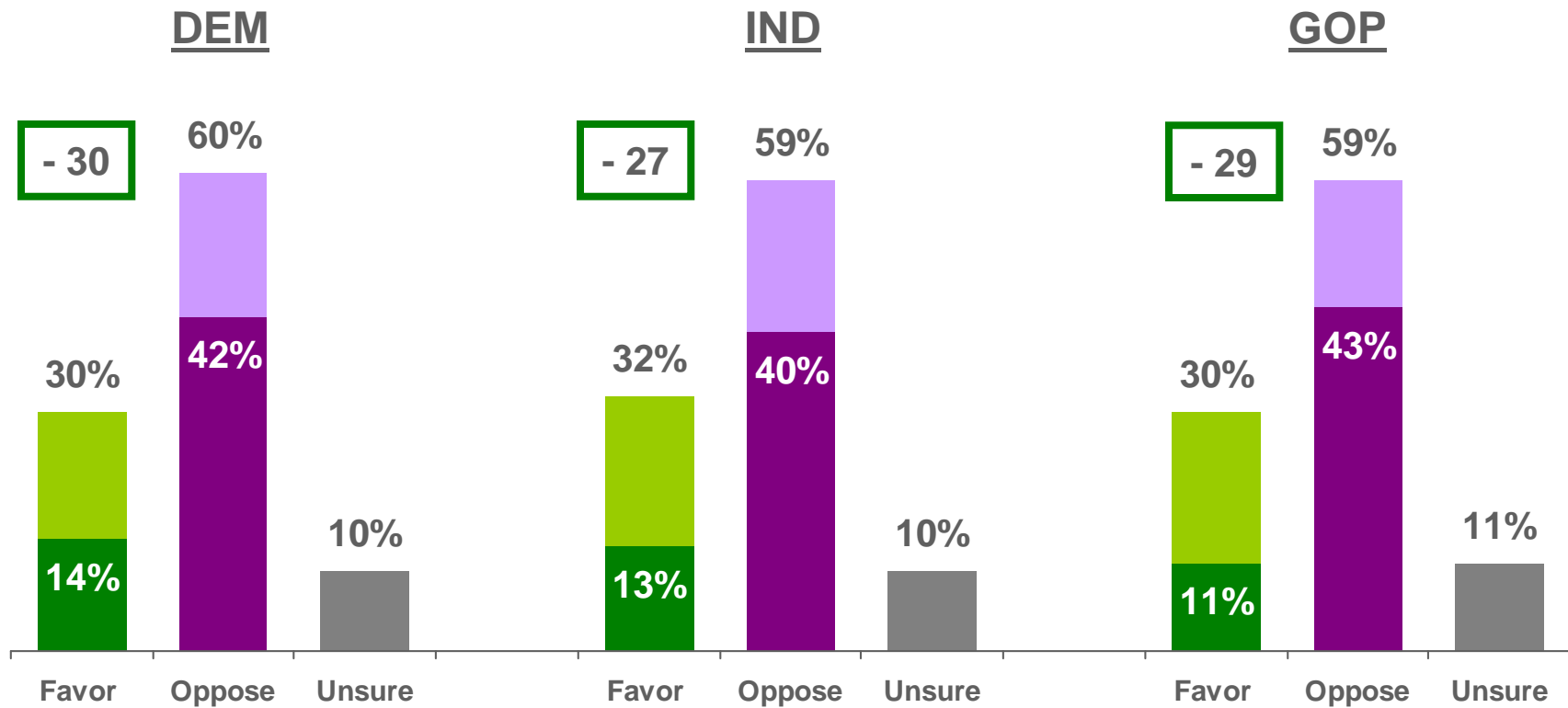
FAVOR / OPPOSE BINDING MANDATORY ARBITRATION - *BY GENDER*



Darker colors=intensity

Opposition to forced arbitration is broad. Majorities across the political divide oppose the practice.

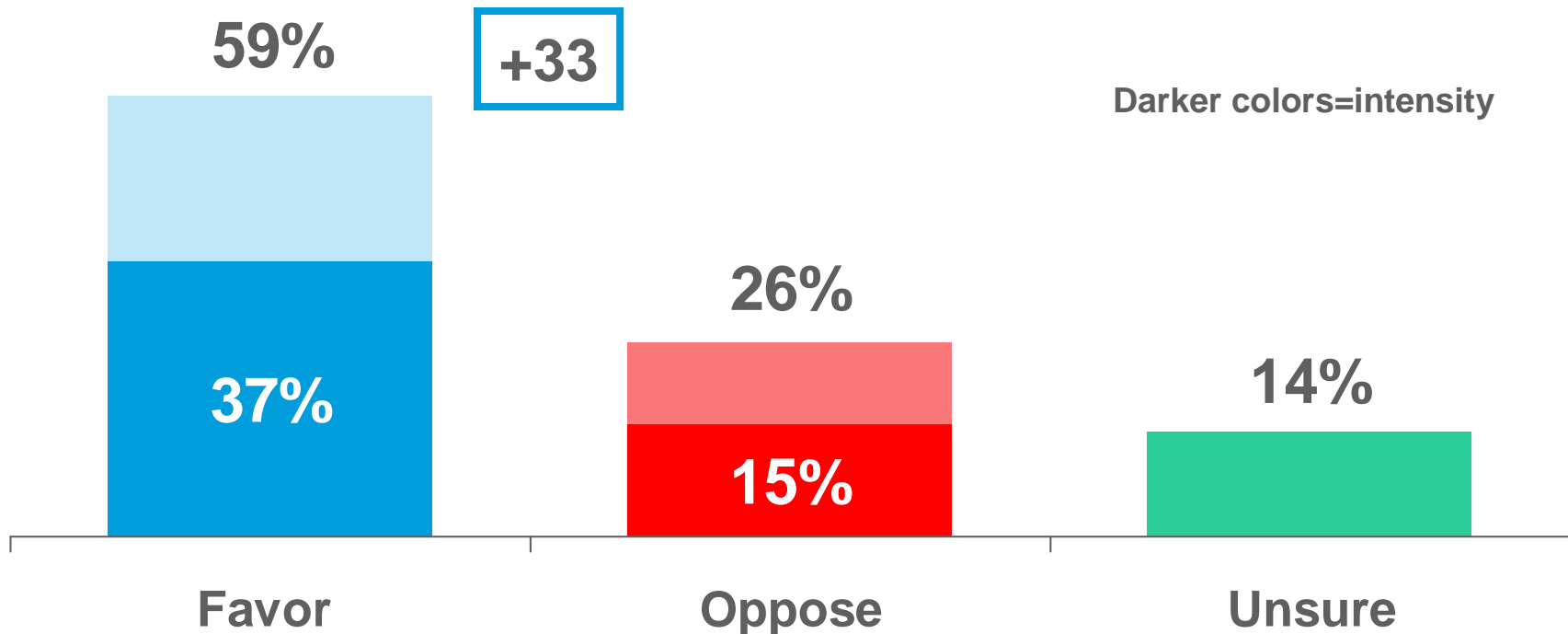
FAVOR / OPPOSE BINDING MANDATORY ARBITRATION - *BY PARTY ID*



Darker colors=intensity

A commanding majority of Americans supports the Arbitration Fairness Act.

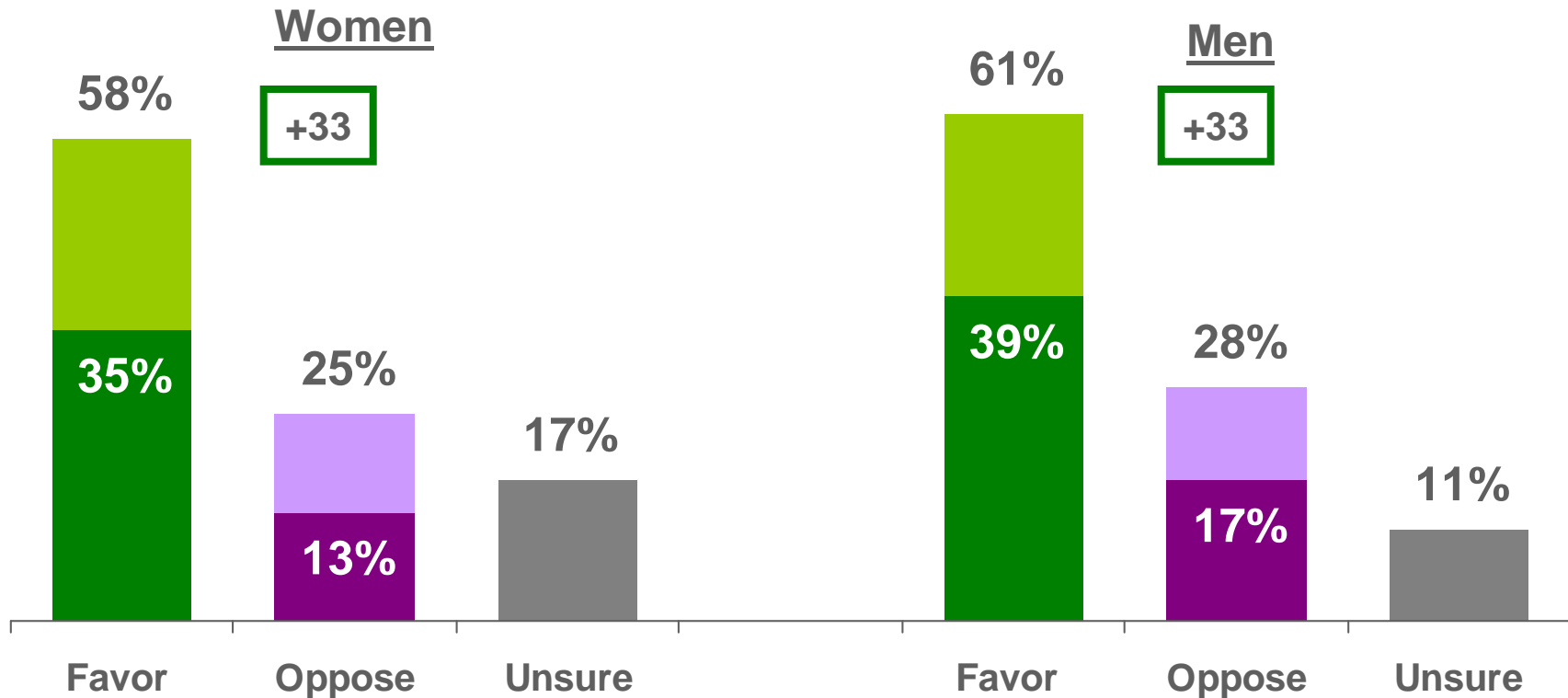
FAVOR / OPPOSE THE ARBITRATION FAIRNESS ACT



Now I would like to read you a short description of legislation that has been introduced in Congress, called the “Arbitration Fairness Act.” The “Arbitration Fairness Act” would end the practice of forcing employees and consumers to sign away their rights to legal protections and access to the courts. It would make binding mandatory arbitration unenforceable in civil rights, employment, consumer, and franchise disputes. The Act would not eliminate voluntary arbitration agreed to after a dispute arises, nor would it affect collective bargaining agreements. Having heard that, would you favor or oppose the “Arbitration Fairness Act,” or are you unsure?

Both men and women support strongly the Arbitration Fairness Act.

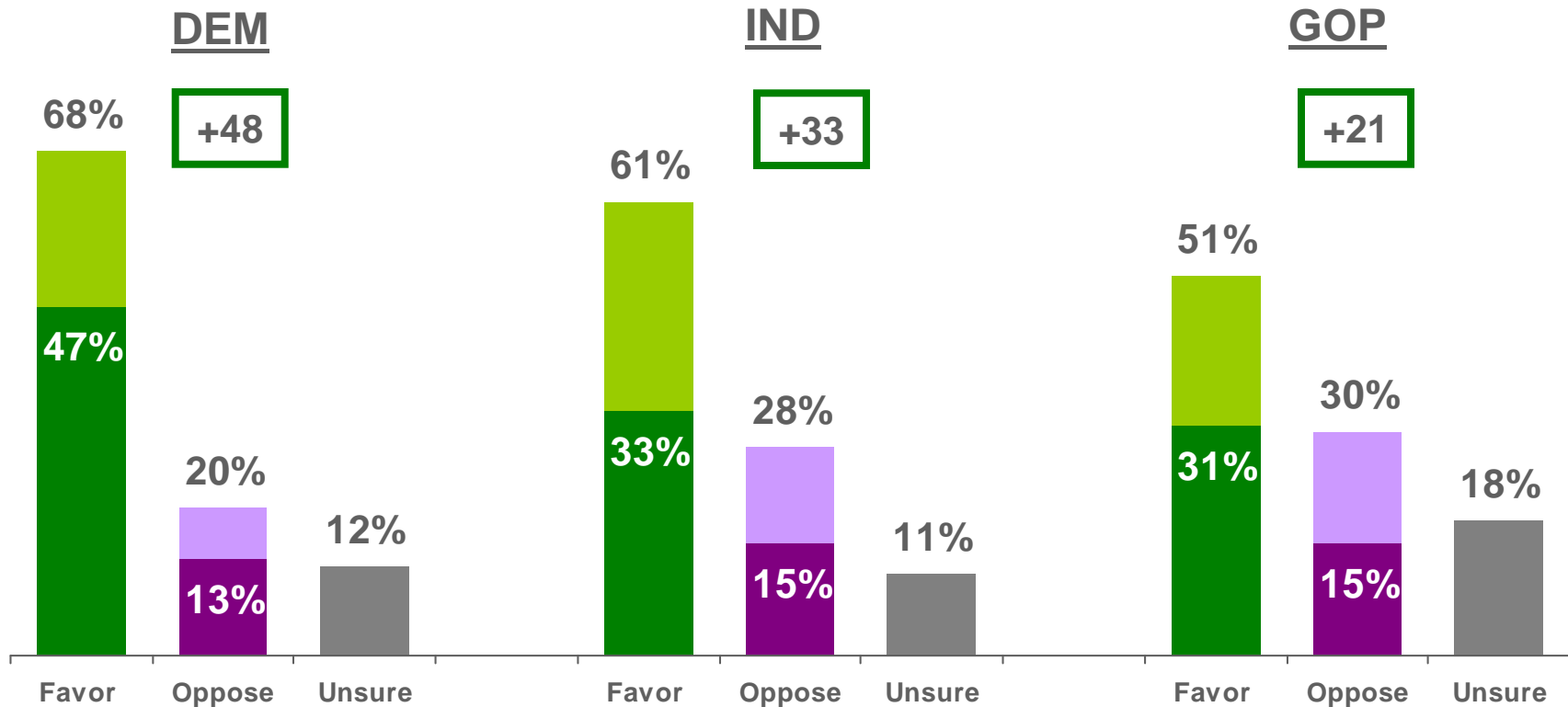
FAVOR / OPPOSE THE ARBITRATION FAIRNESS ACT- *BY GENDER*



Darker colors=intensity

Voters of all partisan stripes support the Arbitration Fairness Act by wide margins.

FAVOR / OPPOSE THE ARBITRATION FAIRNESS ACT - *BY PARTY ID*



Darker colors=intensity

TEXT OF STATEMENTS SUPPORTING AND OPPOSING FORCED ARBITRATION

STATEMENT OF SUPPORT

_[Some/Other] people say employees and consumers have better, cheaper access to justice with arbitration, because it is faster and cheaper than going to court. Arbitration preserves the integrity of our justice system by protecting against frivolous lawsuits, such as people who spill coffee in their laps and sue because the coffee is too hot. These clog the courts, waste tax dollars, and result in higher prices for goods and services for the rest of us. The wealthy trial lawyers who want to eliminate arbitration fail to mention that there are already rules in place that protect consumers and employees from unfair arbitration. We need to strengthen these protections, not eliminate them. In this time of economic crisis, we simply cannot afford to make it more difficult for employees to find work, businesses to grow jobs, and consumers to make ends meet.

SPLIT SAMPLE C – STATEMENT AGAINST

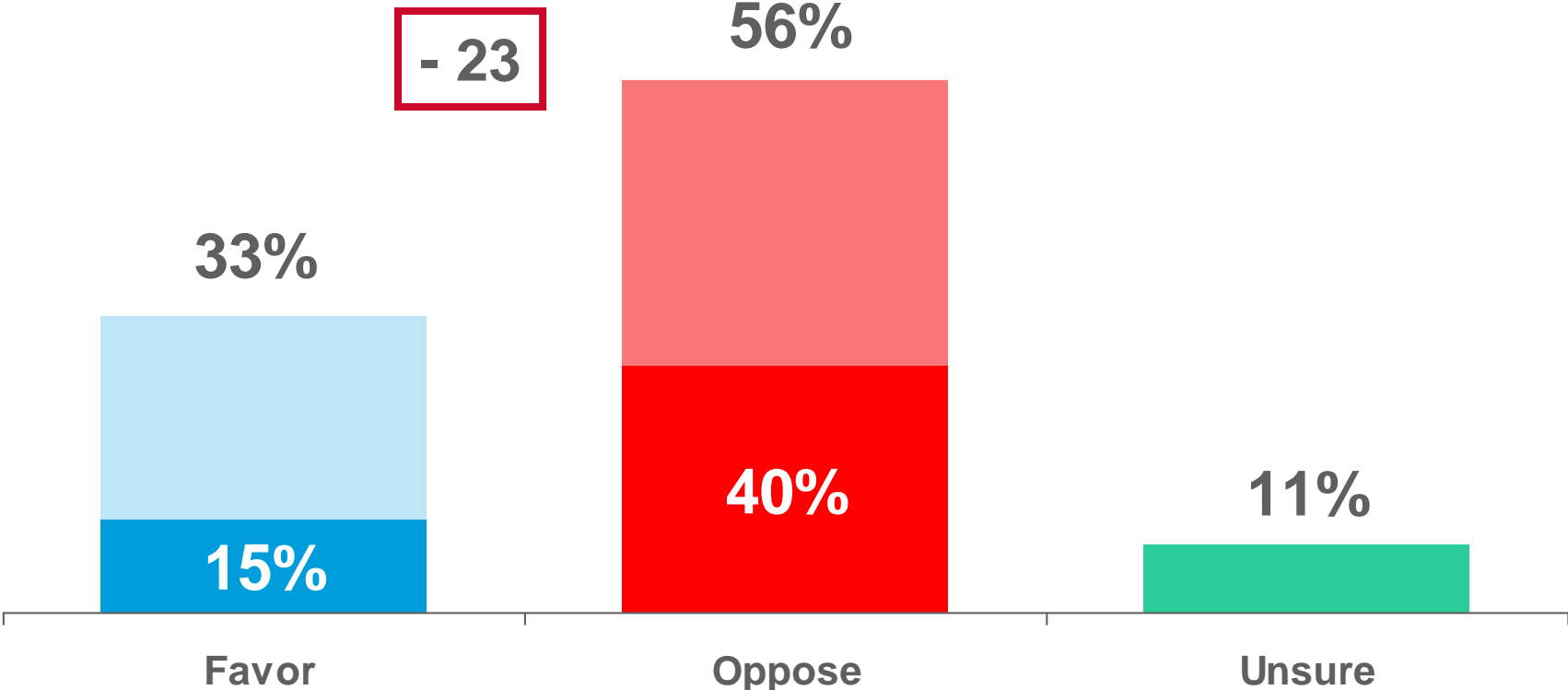
_[Some/Other] people say that binding mandatory arbitration means giving up a basic freedom guaranteed to every American: the right to equal justice under the law. This is not about frivolous lawsuits. Or about *voluntary* arbitration, which can be a positive way to resolve disputes. This is about losing your constitutional right to a judge and jury, and a chance to appeal, no matter if you or a member of your family has gone bankrupt from a credit scam, been sexually harassed or abused by an employer, or harmed or even killed by a company's negligence. With binding mandatory arbitration, we don't even have a choice to say no – simply by depositing a paycheck or using a product or service, you lose the option of going to court. Nobody should be forced to give up their basic rights to keep a job, put a roof over their head, or go to the doctor.

SPLIT SAMPLE D – STATEMENT AGAINST

_[Some/Other] people say binding mandatory arbitration is another example of big business taking advantage of ordinary Americans. This is not about frivolous lawsuits. Or about *voluntary* arbitration, which can be a positive way to resolve disputes. This is about powerful industries, like insurance, banks, credit cards, and nursing home operators, avoiding responsibility when someone is defrauded, or even seriously hurt or killed by their negligence. Under binding mandatory arbitration, you are forced into a separate corporate legal system, designed and controlled by companies and their lawyers, with arbitrators who are paid by the company and don't even need to be lawyers or follow the law. There is no judge, no jury, no public record, and no appeal. Companies are stacking the deck and that's not right. Especially when people are hurting in this economic crisis, we need to level the playing field and ensure that companies are accountable for their actions.

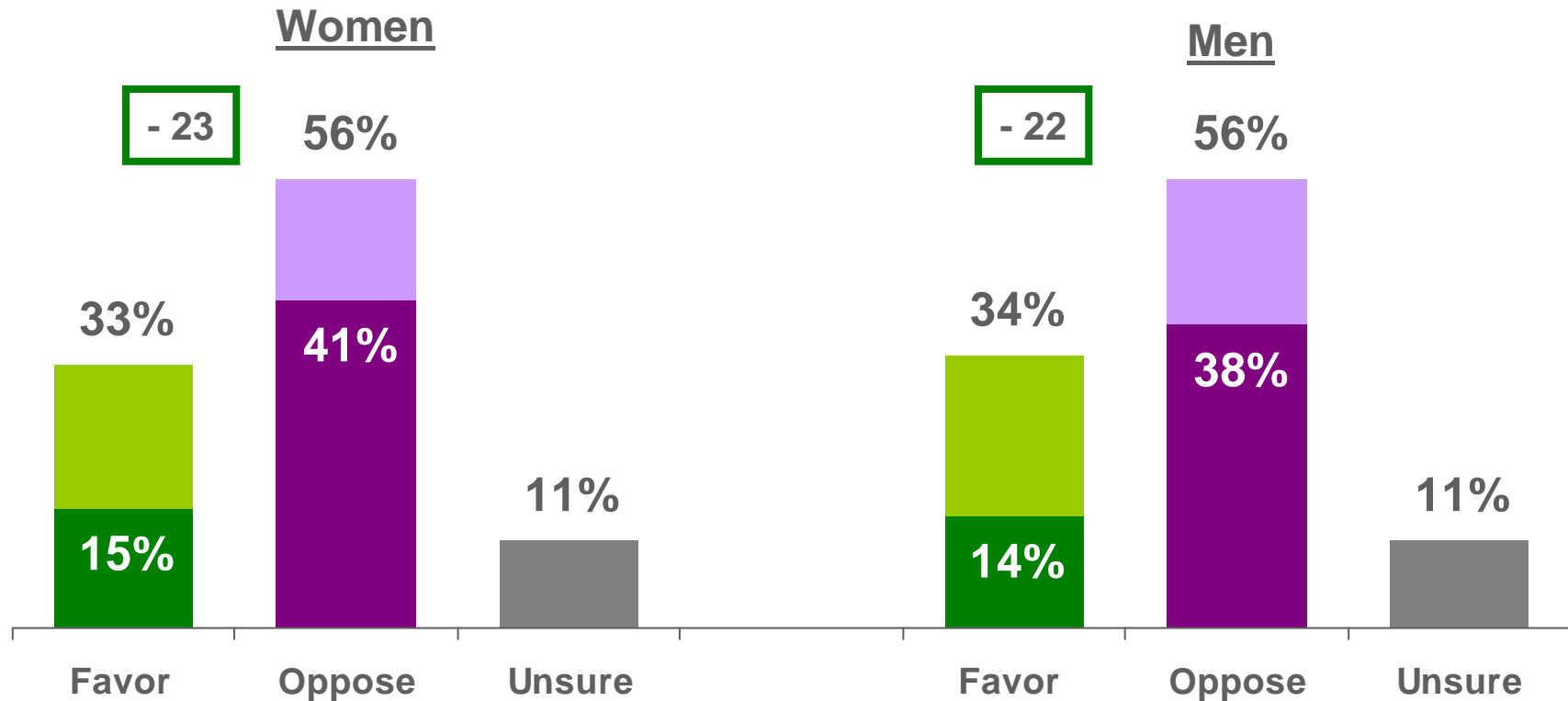
A solid majority of Americans remains opposed to forced arbitration after hearing arguments from both sides.

**ENGAGED DEBATE - FAVOR/OPPOSE
BINDING MANDATORY ARBITRATION**



Both men and women oppose forced arbitration after hearing statements in favor of, and opposed to, the practice.

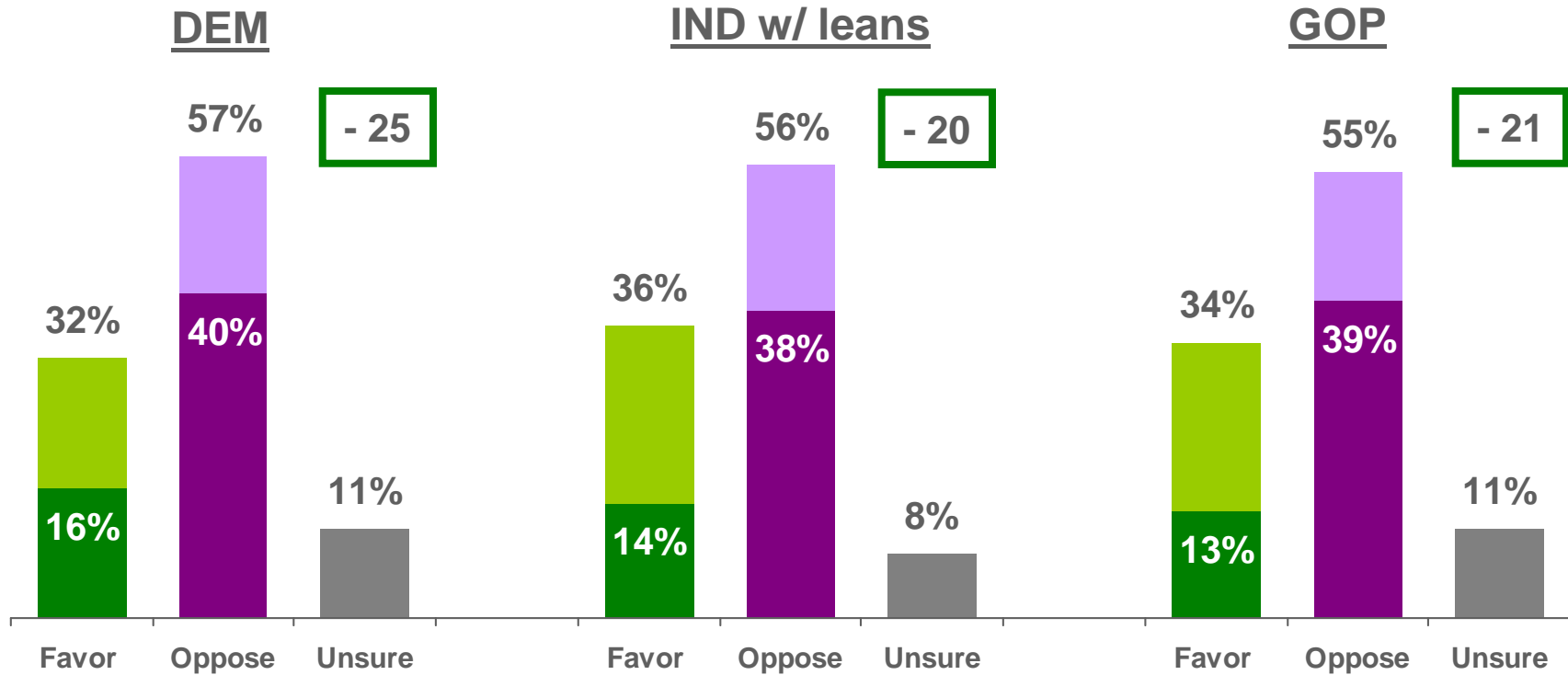
ENGAGED DEBATE - FAVOR / OPPOSE BINDING MANDATORY ARBITRATION - *BY GENDER*



Darker colors=intensity

Notably, majorities across the political divide oppose forced arbitration after hearing from both sides of the debate.

**ENGAGED DEBATE - FAVOR / OPPOSE BINDING
MANDATORY ARBITRATION - *BY PARTY ID***



Darker colors=intensity

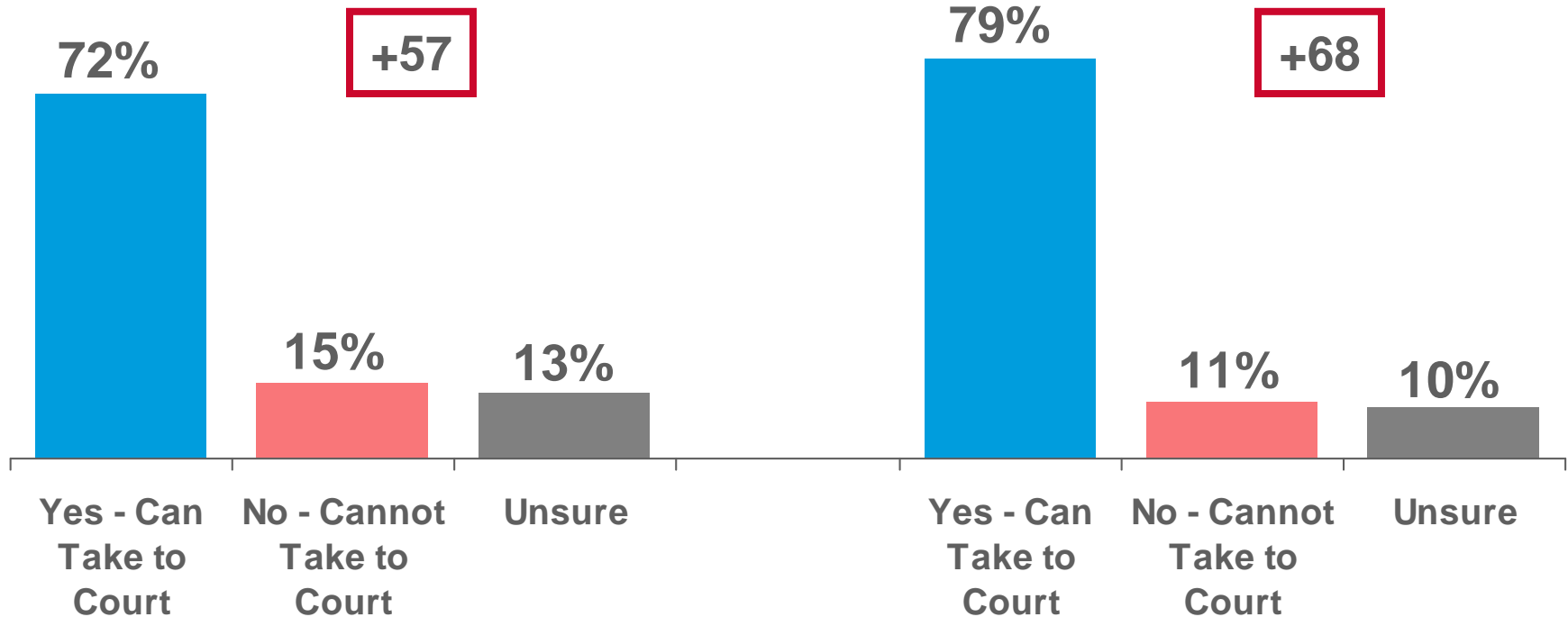
Stunning majorities believe they have the right to sue should they be seriously harmed or have a major dispute arise – even if they are bound by forced arbitration terms.

Each question asked of half the sample

Can You Sue Company/Employer if Harmed or Have Dispute?

SPLIT A – YOUR EMPLOYER

SPLIT B – A COMPANY



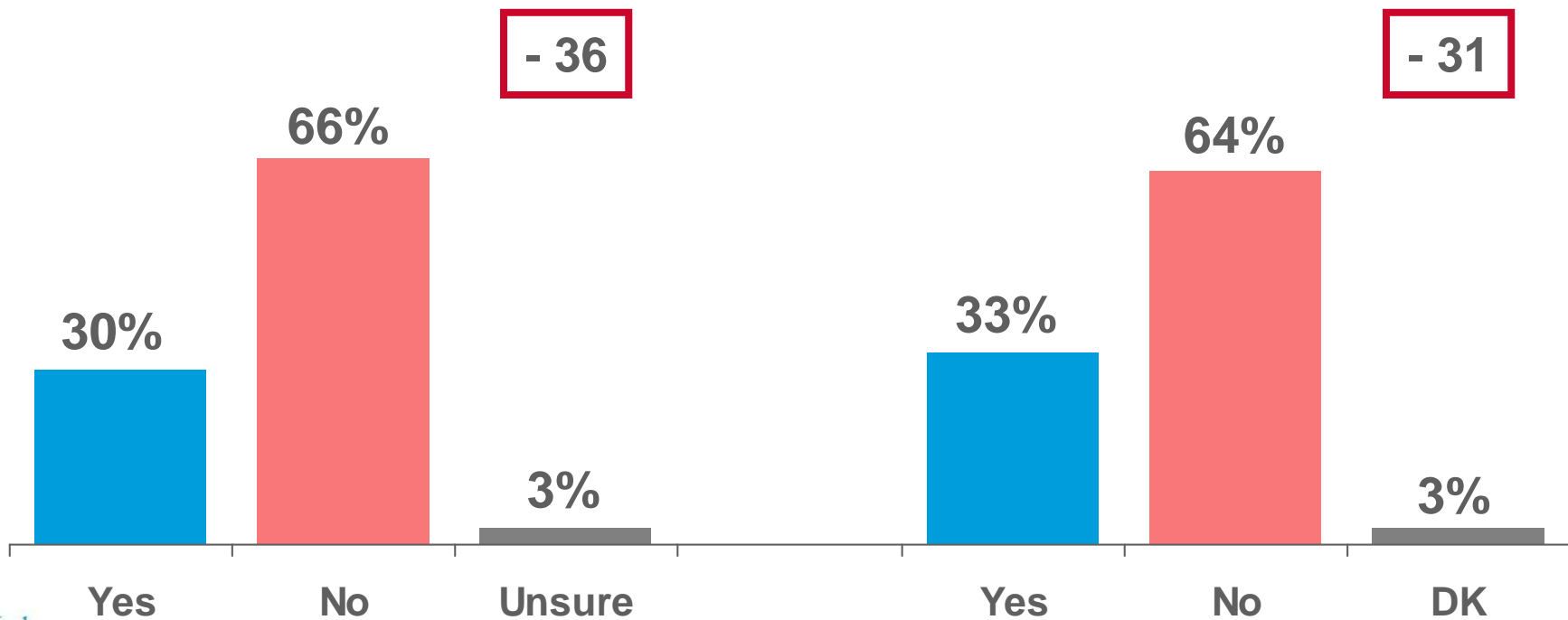
Many do not know that their rights are being taken away. Roughly two-thirds cannot remember reading about a forced arbitration provision in Terms of Employment or in Terms of Agreement for goods and services.

Each question asked of half the sample

Buried in the Fine Print - Do you remember seeing anything about arbitration?

SPLIT A – IN TERMS OF EMPLOYMENT

SPLIT B – IN TERMS OF AGREEMENT



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