

HAS THE CHARTER TAKEN ROOT?

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MOTIVATION

- Alan Cairns thought that the 1982 Constitution “grafted” a new constitutional idea onto an older constitutional order
- The Charter “will, along with other factors, modify the civic identities of Canadians, but its full impact will not be apparent for several decades...” (Cairns 1992)
- More than 40 years after its adoption in 1982, has the Charter taken root in the minds of Canadians?

CAIRNS'S THREE QUESTIONS

Q1: Do citizens respond positively to political questions framed around 'rights talk' and the Charter?

Q2: Do citizens support an enhanced role for the courts?

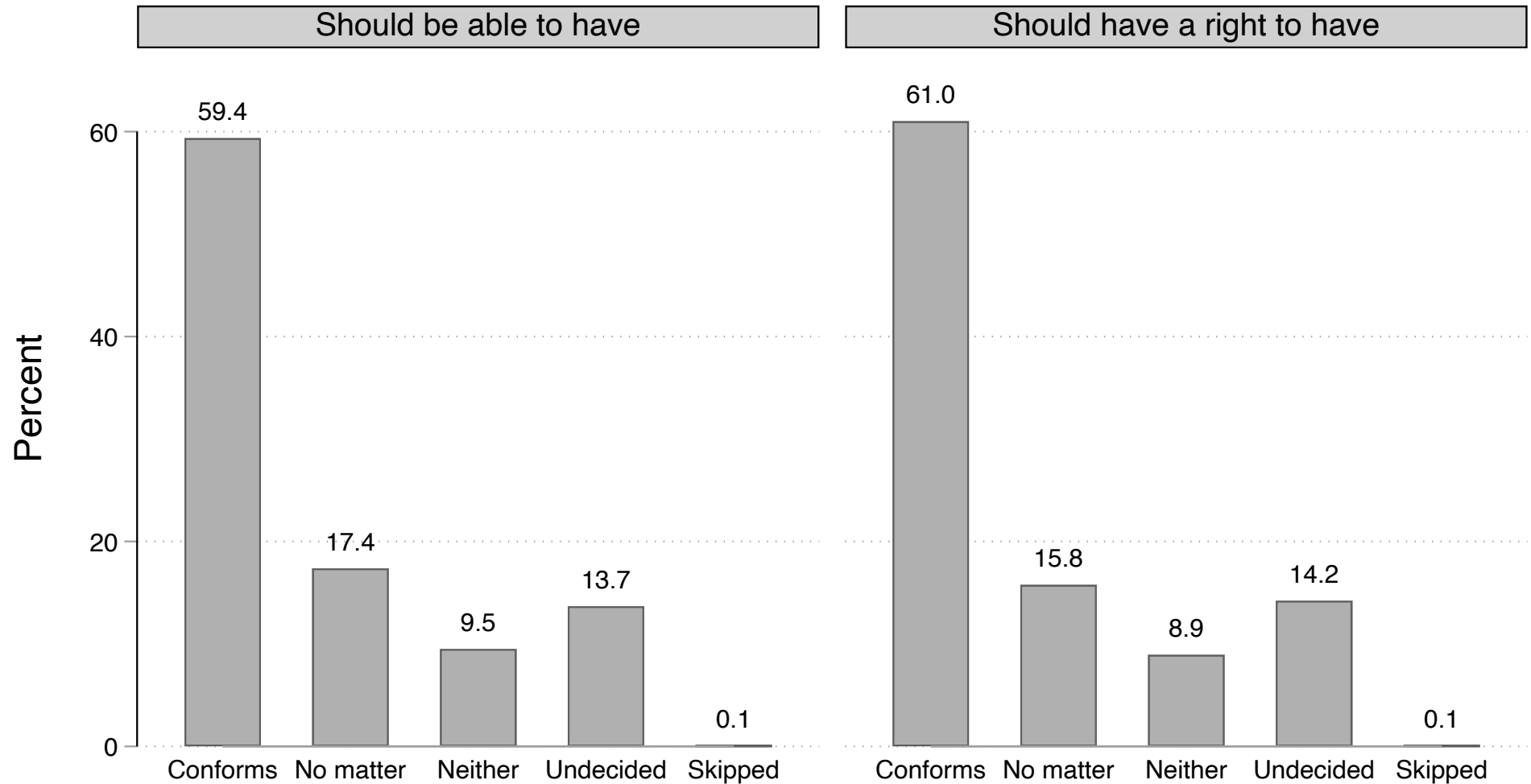
Q3: Has the Charter modified the civic identities of Canadians?

DATA AND METHODS

- 20-minute online survey of Canadian adults from the Léger Opinion panel
- Fielded May 2023
- Sampling quotas for gender identity, age, region, education, and language
- N = 2,503
- Included:
 - Replications from Sniderman et al's pathbreaking 1987 surveys
 - Original questions and survey experiments

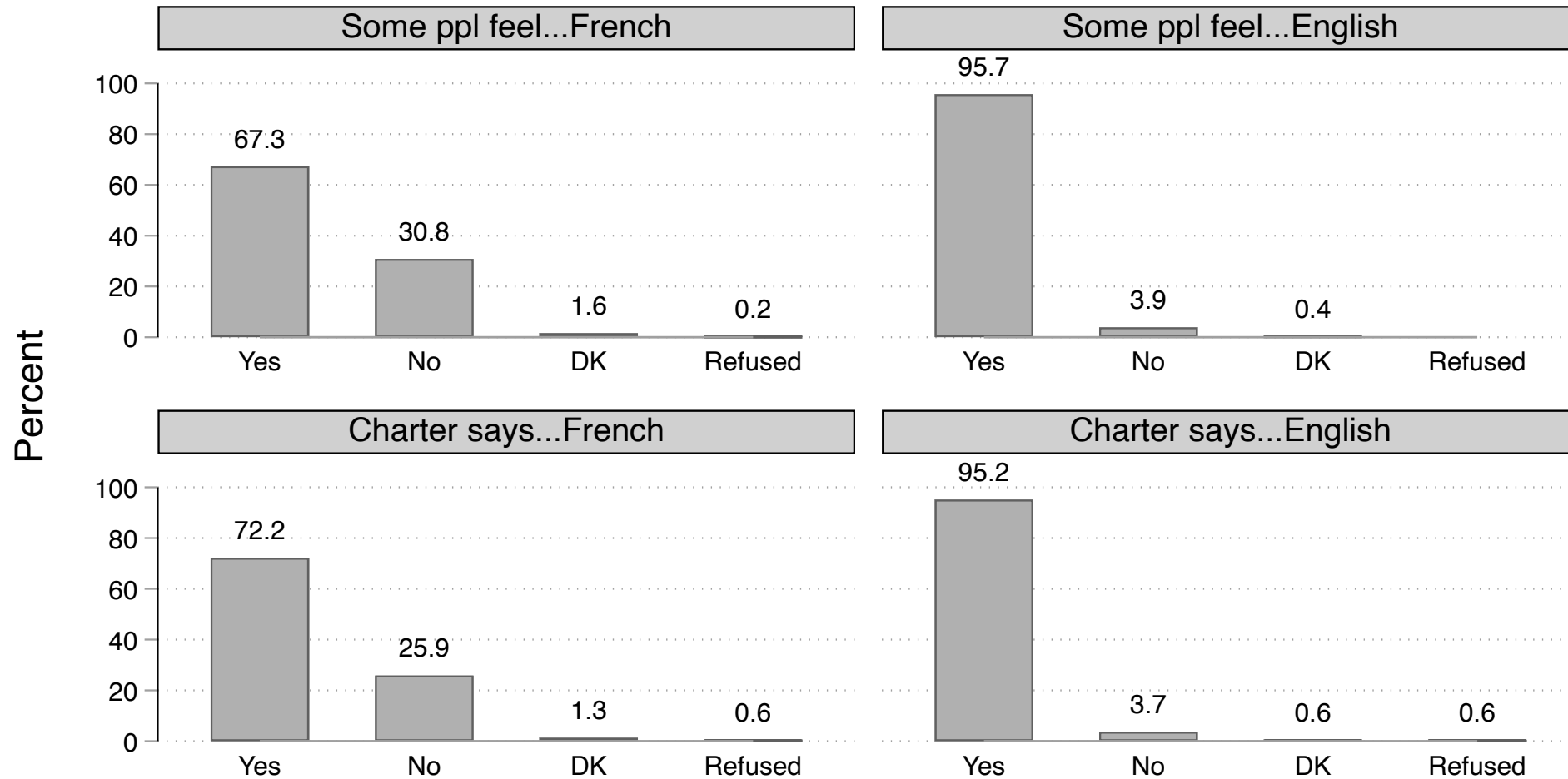
Q1: 'RIGHTS TALK' AND CHARTER?

Indigenous self-government 2023 online survey



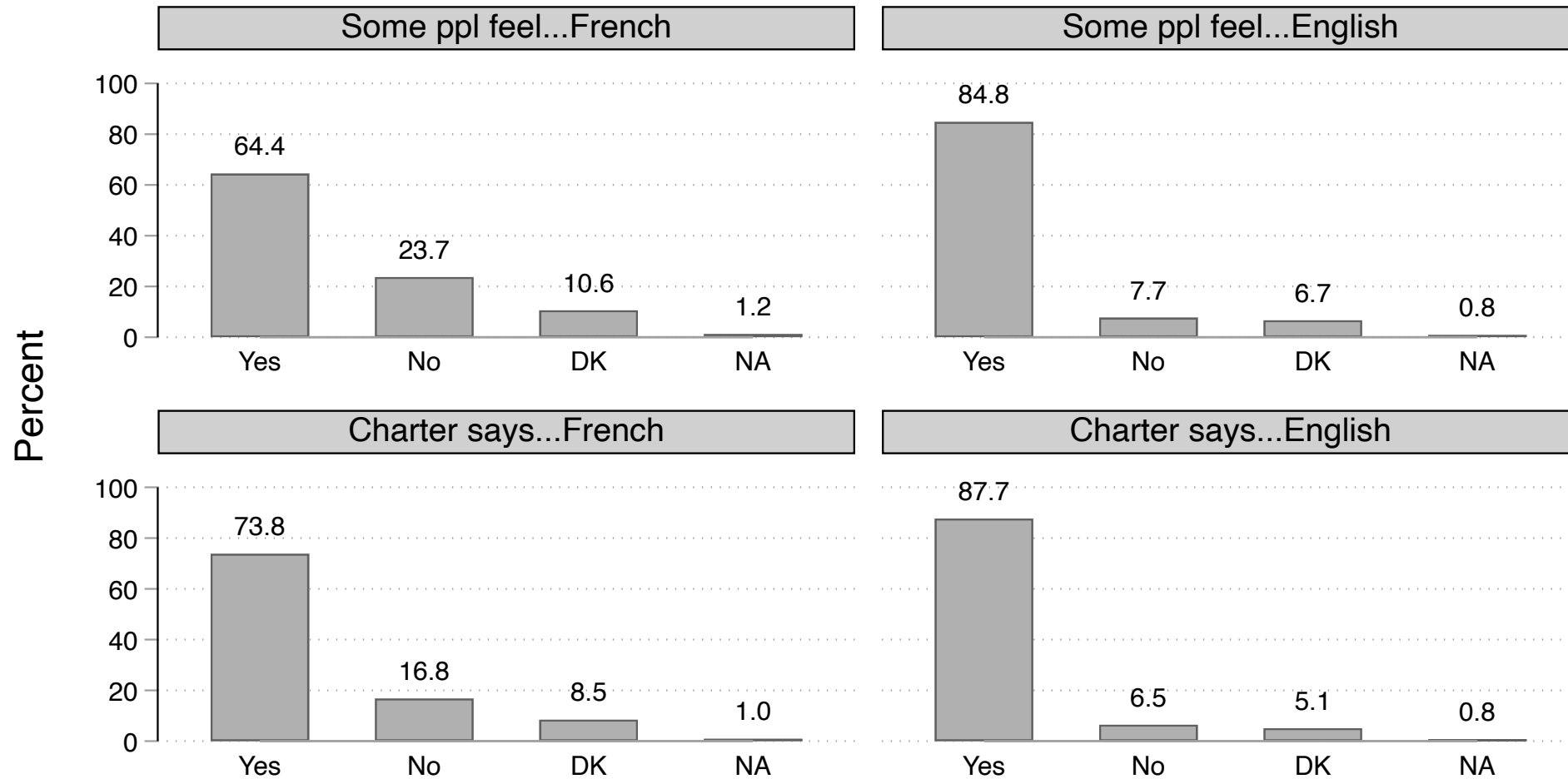
Question: Indigenous peoples should [be able / have a right] to have a large amount of self-government: as long as their system of government conforms with the principles of Canadian democracy; no matter what system of government they adopt; Neither; Undecided.

Right to federal government services 1987 telephone survey



Question: [Some people feel / The Charter of Rights says] that [French Canadians living outside Quebec / English Canadians living inside Quebec] have a basic right to have federal government services available in [French / English]. Do you think [French/English] Canadians living outside Quebec should have a basic right to have government services in their own language?

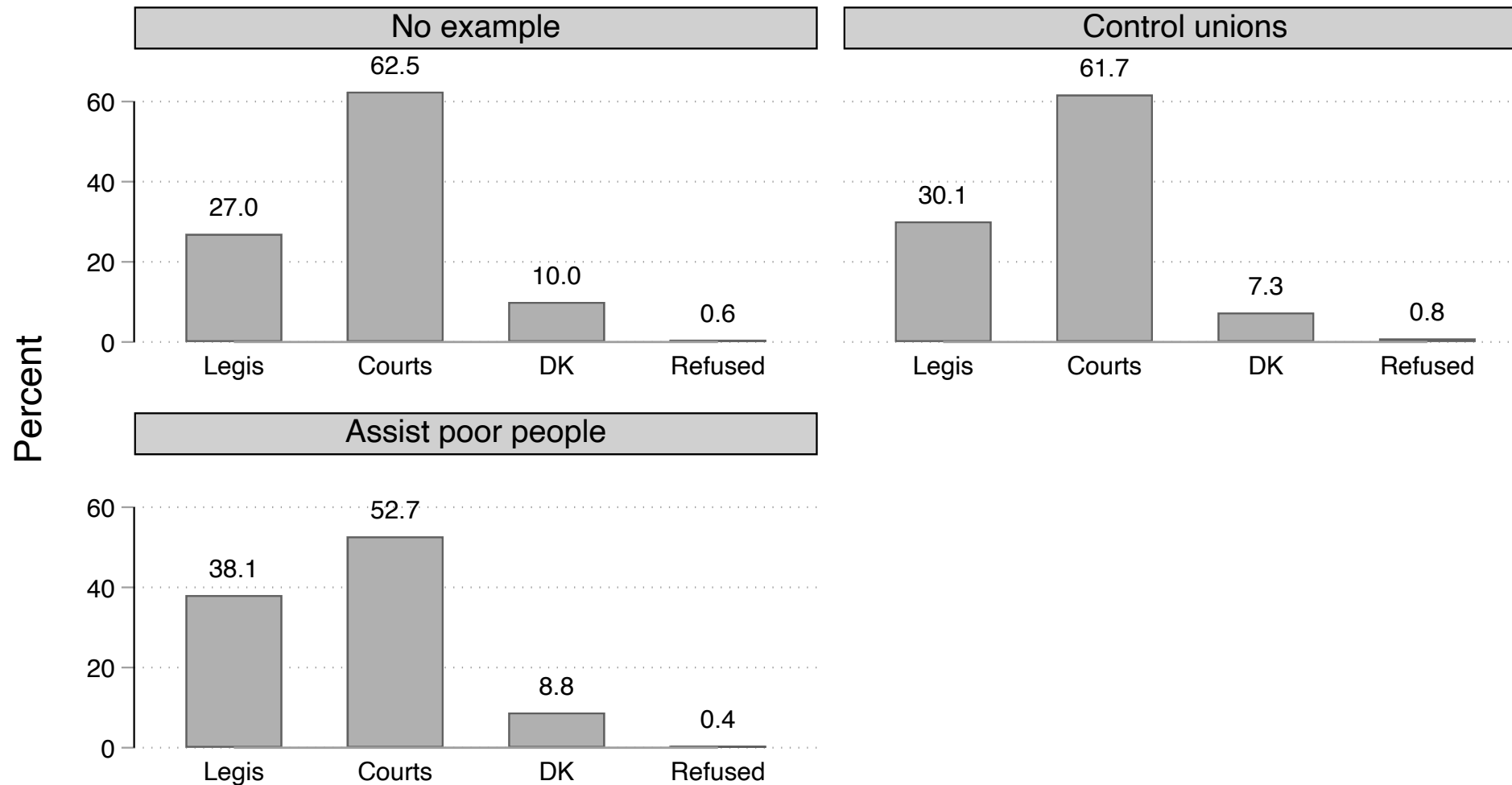
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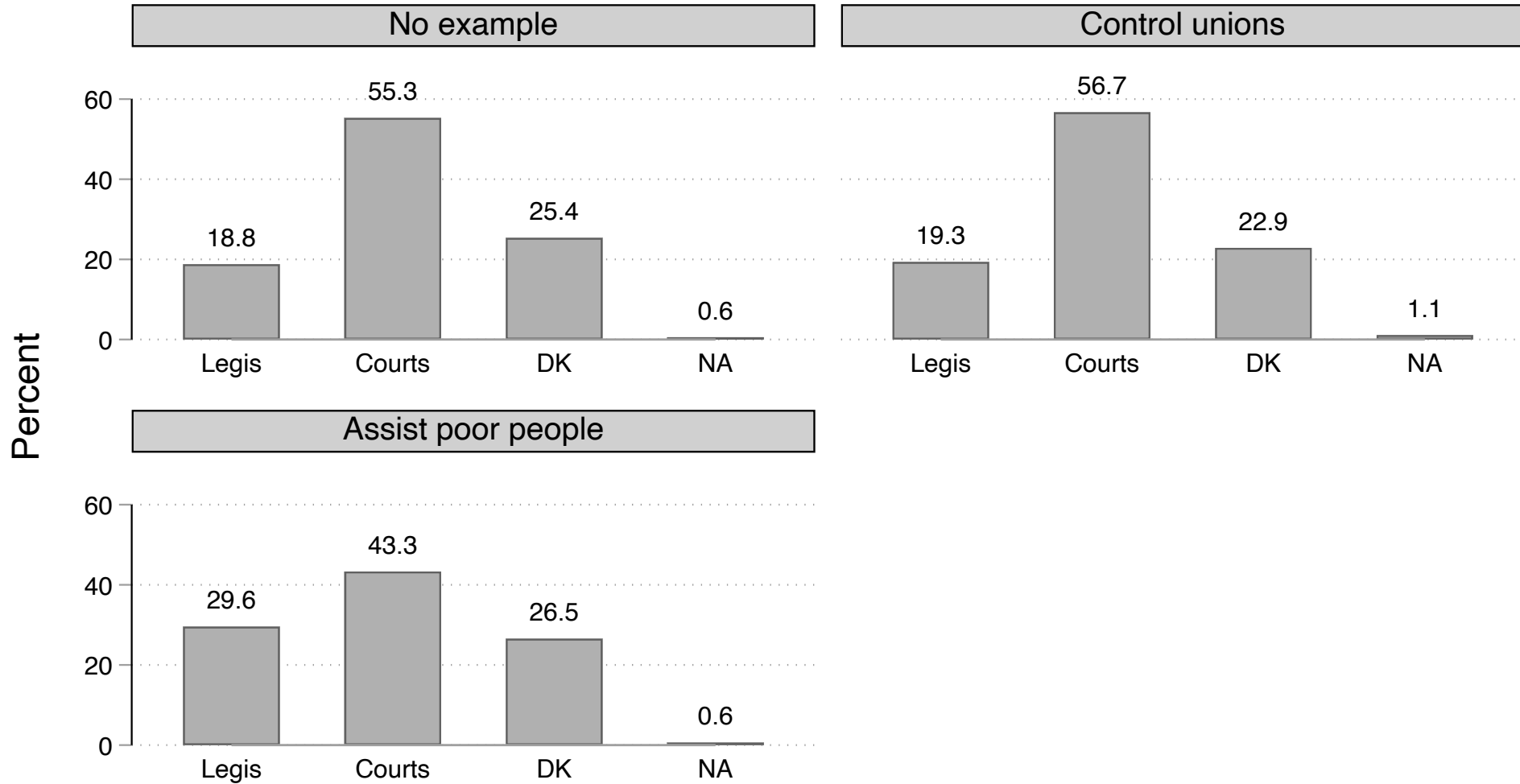
Q2: ROLE FOR THE COURTS?

When courts say law is unconstitutional...who should have the final say? 1987 telephone survey



Question: When the legislature passes a law[, for example to control unions,/, for example to assist poor people,] but the courts say it is unconstitutional on the grounds that it conflicts with the Charter of Rights, who should have the final say, the legislature or the courts?

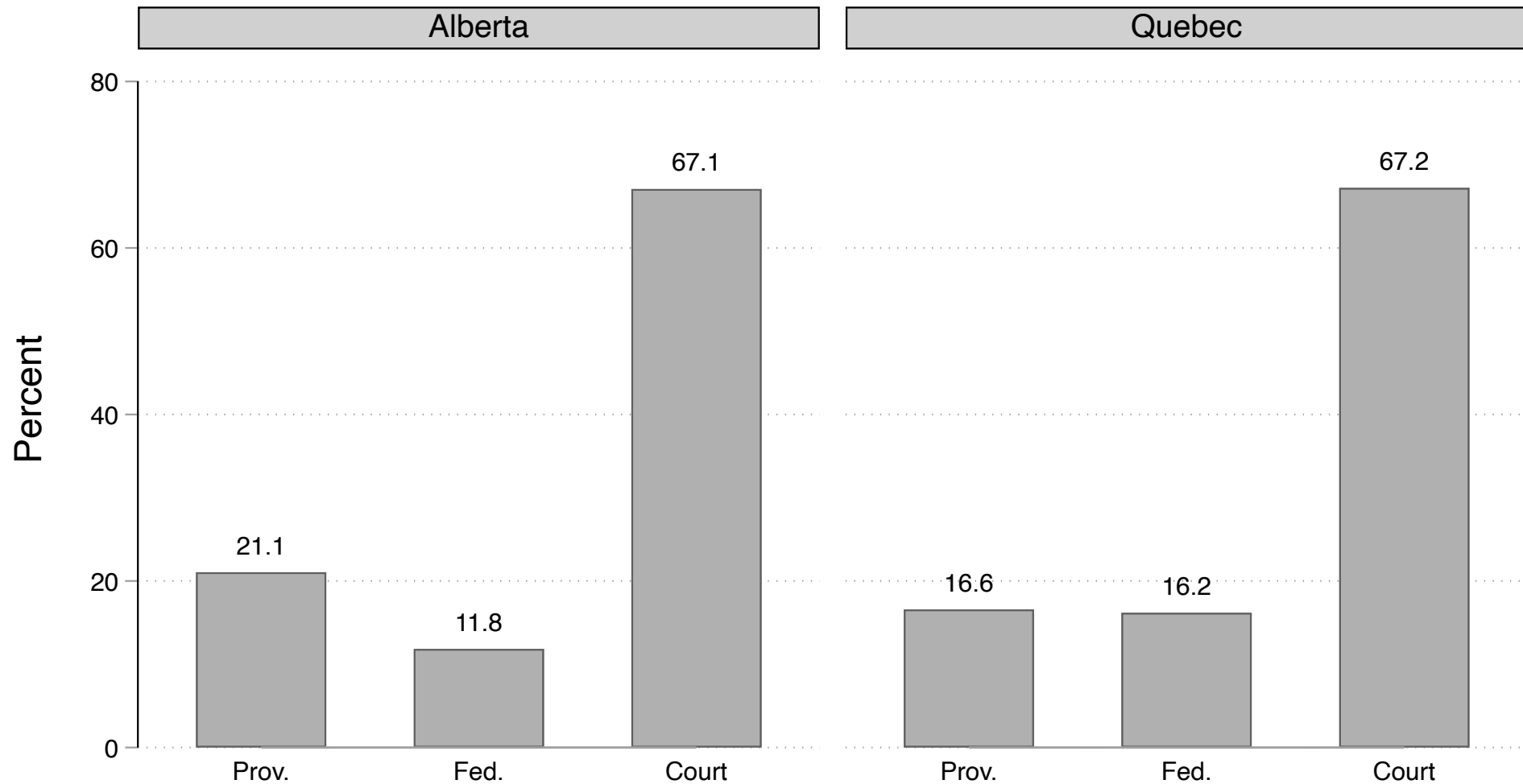
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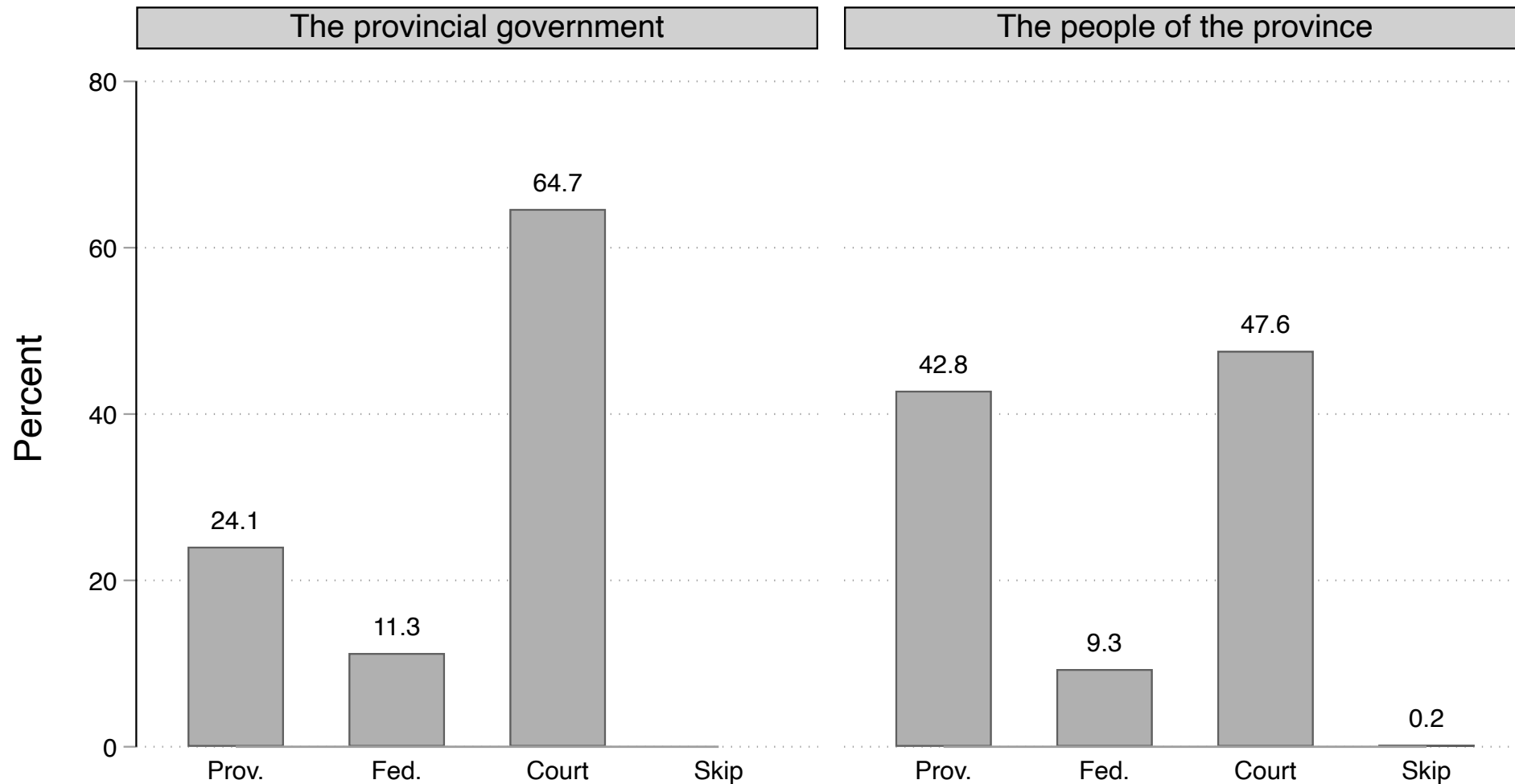
Q3: CIVIC IDENTITIES?

Who should have the last word? - Alberta/Quebec - Rights of individuals 2023 online survey



Question: If the [Alberta/Quebec] provincial government believes a federal government initiative violates the rights and freedoms of [Albertans/Quebecers], but the federal government disagrees, who should have the last word, [Alberta/Quebec], the federal government, or the Supreme Court of Canada?

Who should have the last word? - Provincial government / People of the Province 2023 online survey



Question: If a provincial government believes a federal government initiative interferes with an area of provincial jurisdiction set out in the Constitution, who should have the last word, [the provincial government / the people of the province], the federal government, or the Supreme Court of Canada?

CONCLUSION

Has the Charter taken root?

- **Q1:** No evidence of the persuasive power of rights talk, but some evidence of the persuasive power of the Charter
- **Q2:** Strong commitment to a judicial ‘final say,’ but some evidence that the issue still matters
- **Q3:** Some evidence that provincial identity influences the ‘last word,’ but also a substantial shift in support when ‘people of the province’ are potential final arbiter
- Has the “citizen’s constitution” awakened “hitherto dormant questions as to the locus of sovereignty in Canada?” (Cairns 1992)

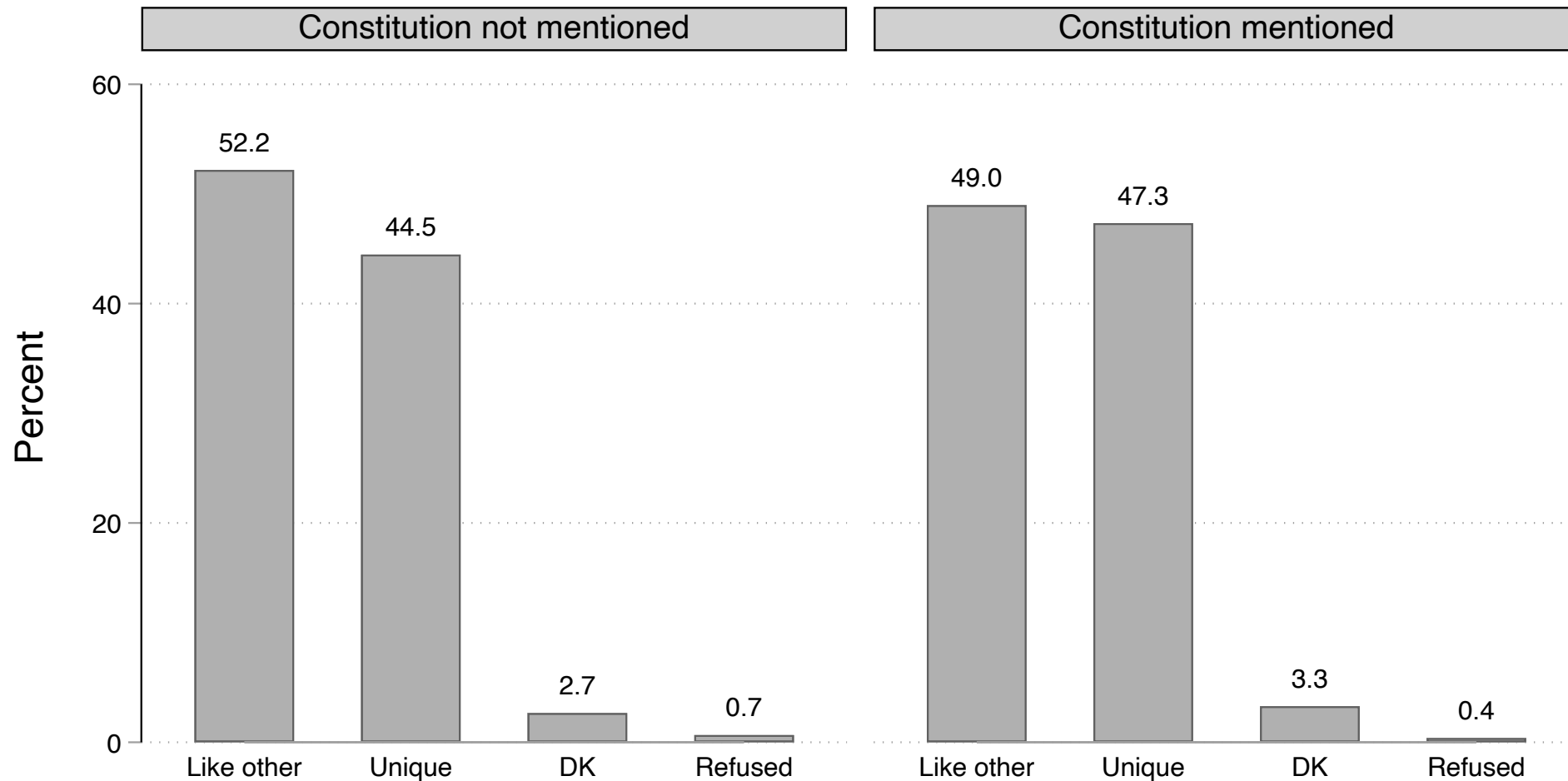
THANK YOU

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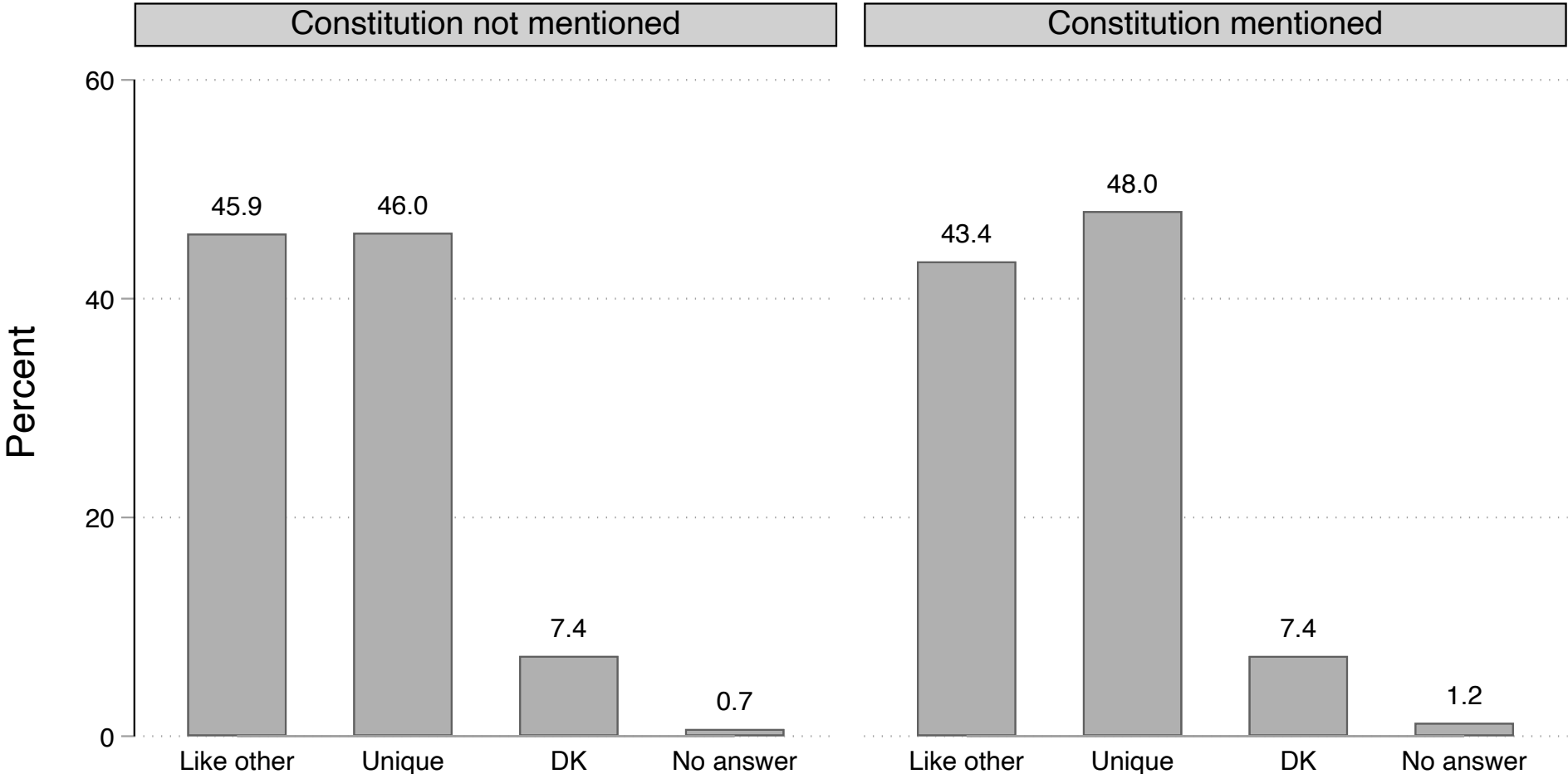
APPENDIX

Indigenous rights 1987 telephone survey



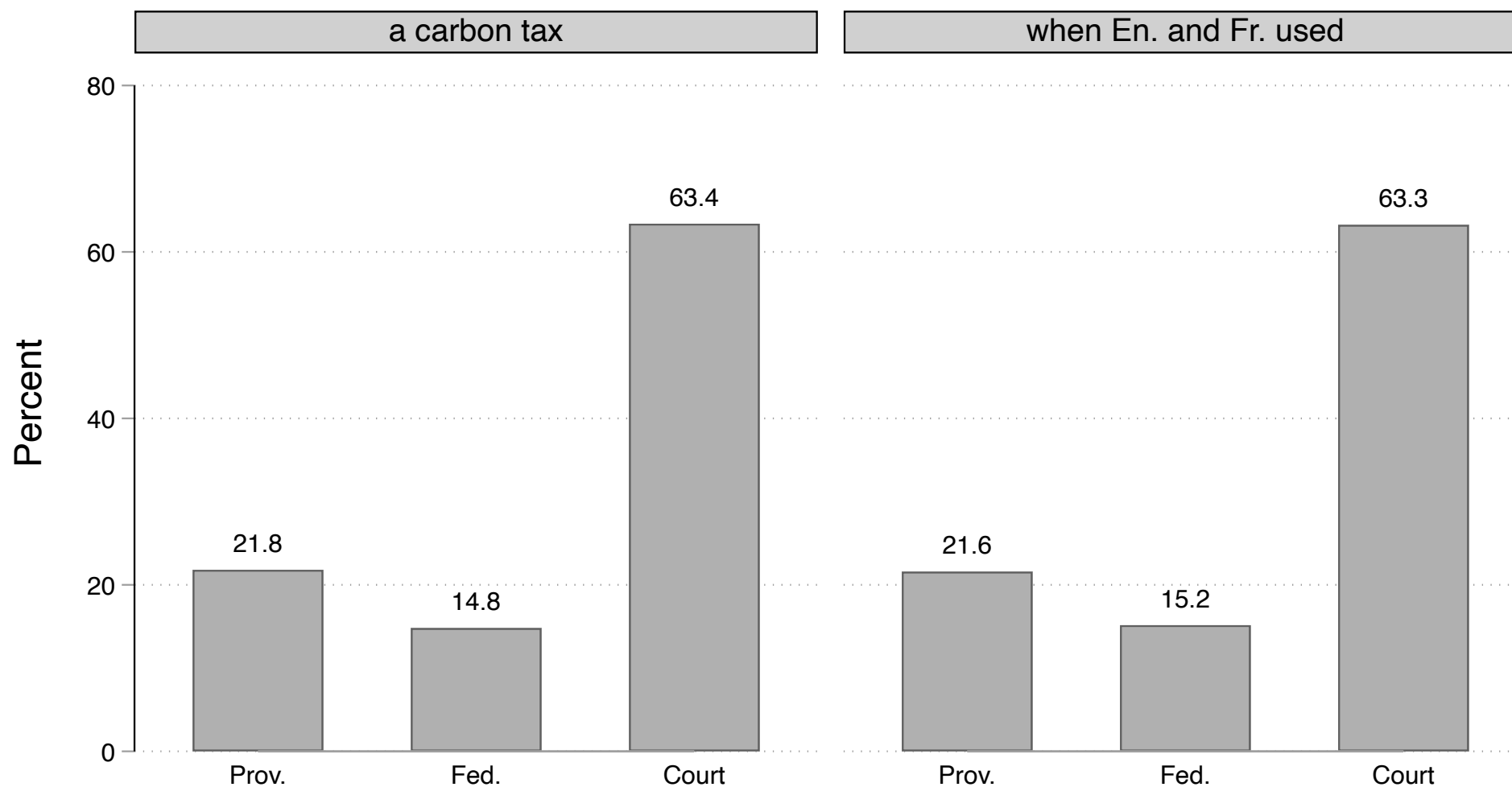
Question: [Should native peoples be treated just like any other Canadian, with no special rights, or should the unique rights of Canada's native peoples be preserved? / Canada's constitution recognizes the unique rights of Canada's native peoples. Should native peoples be treated just like any other Canadian, with no special rights, or should their unique rights be preserved?]

Indigenous rights 2023 online survey



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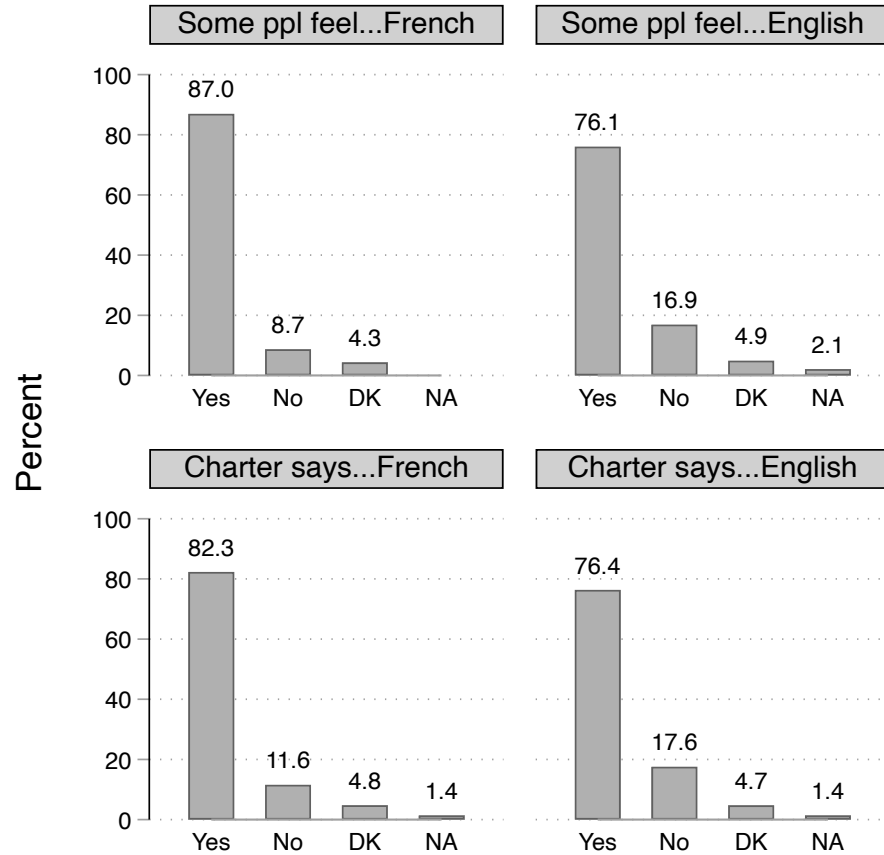
Who should have the last word? - Carbon tax/Language 2023 online survey



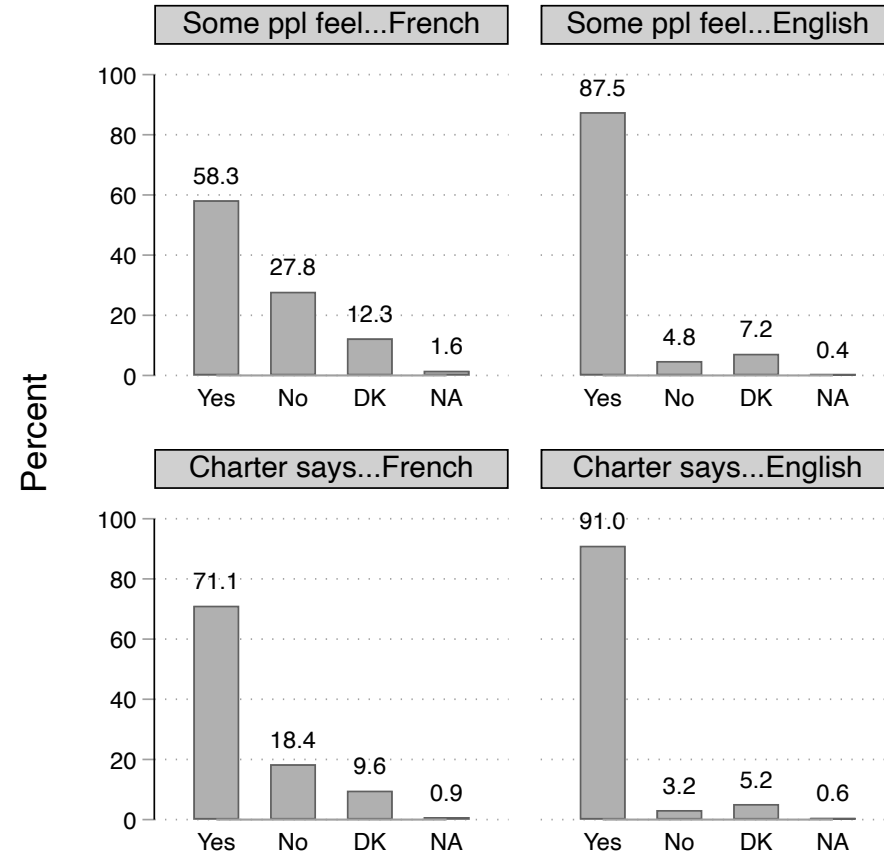
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Right to federal government services 2023 online survey

Quebec residents

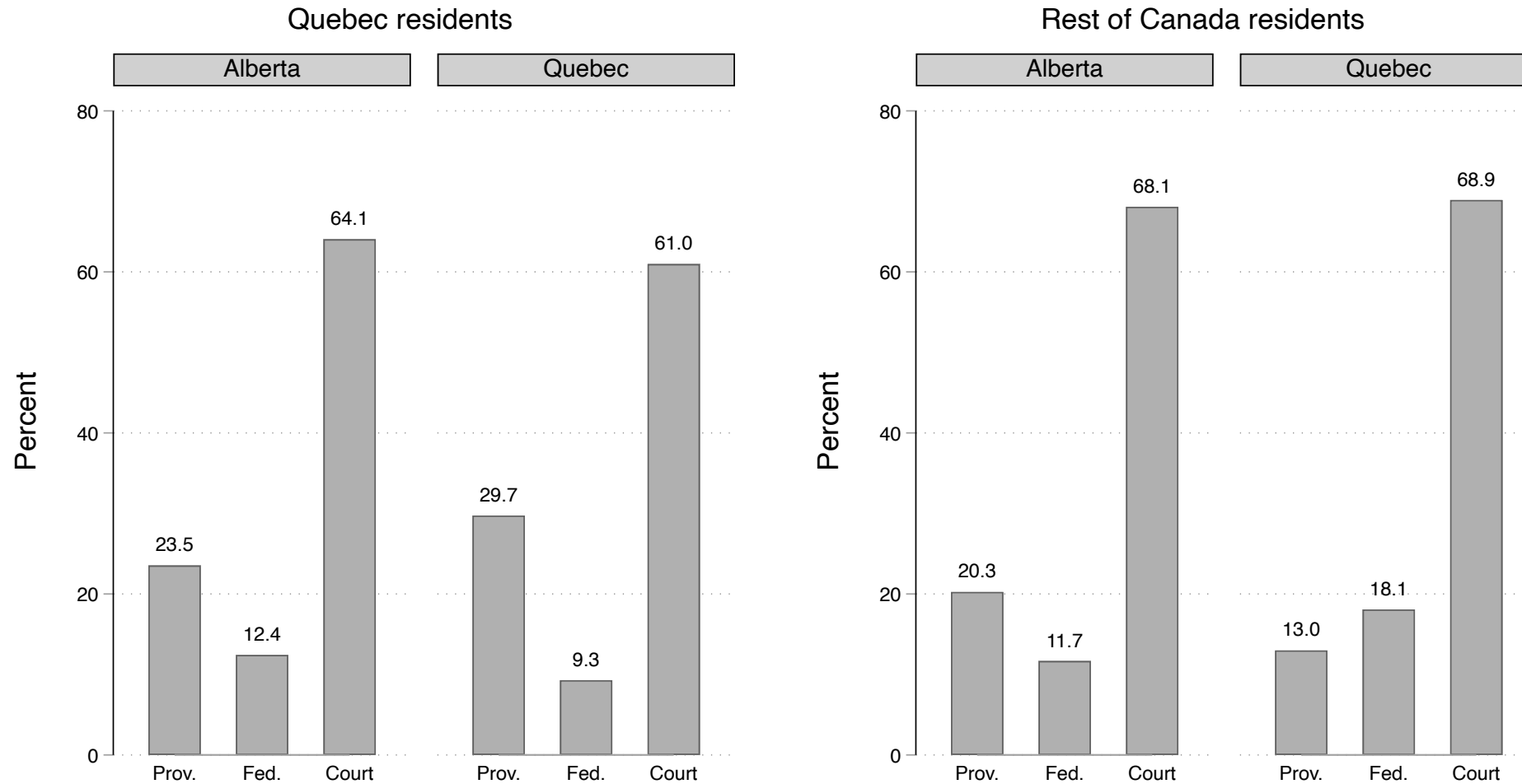


Rest of Canada residents



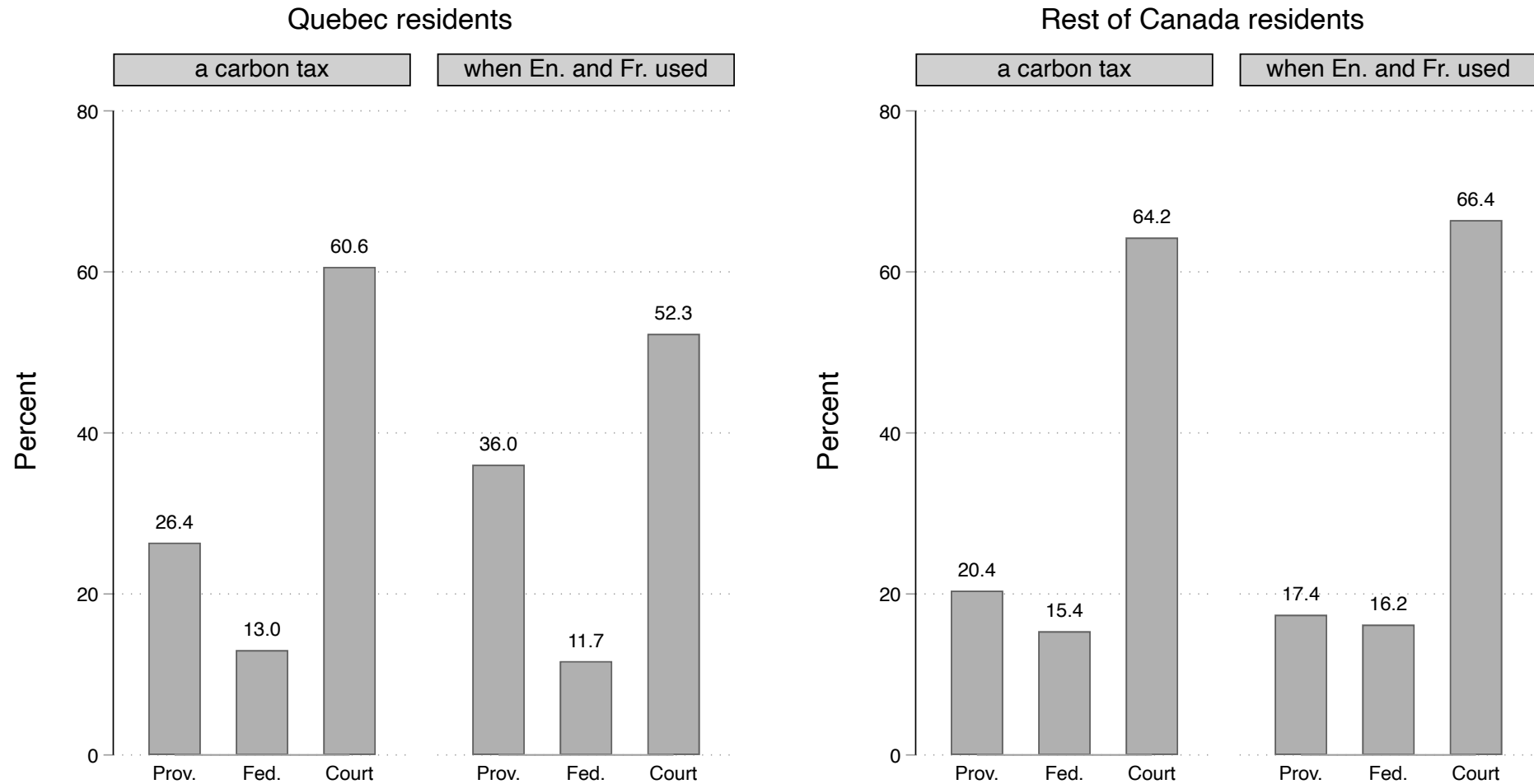
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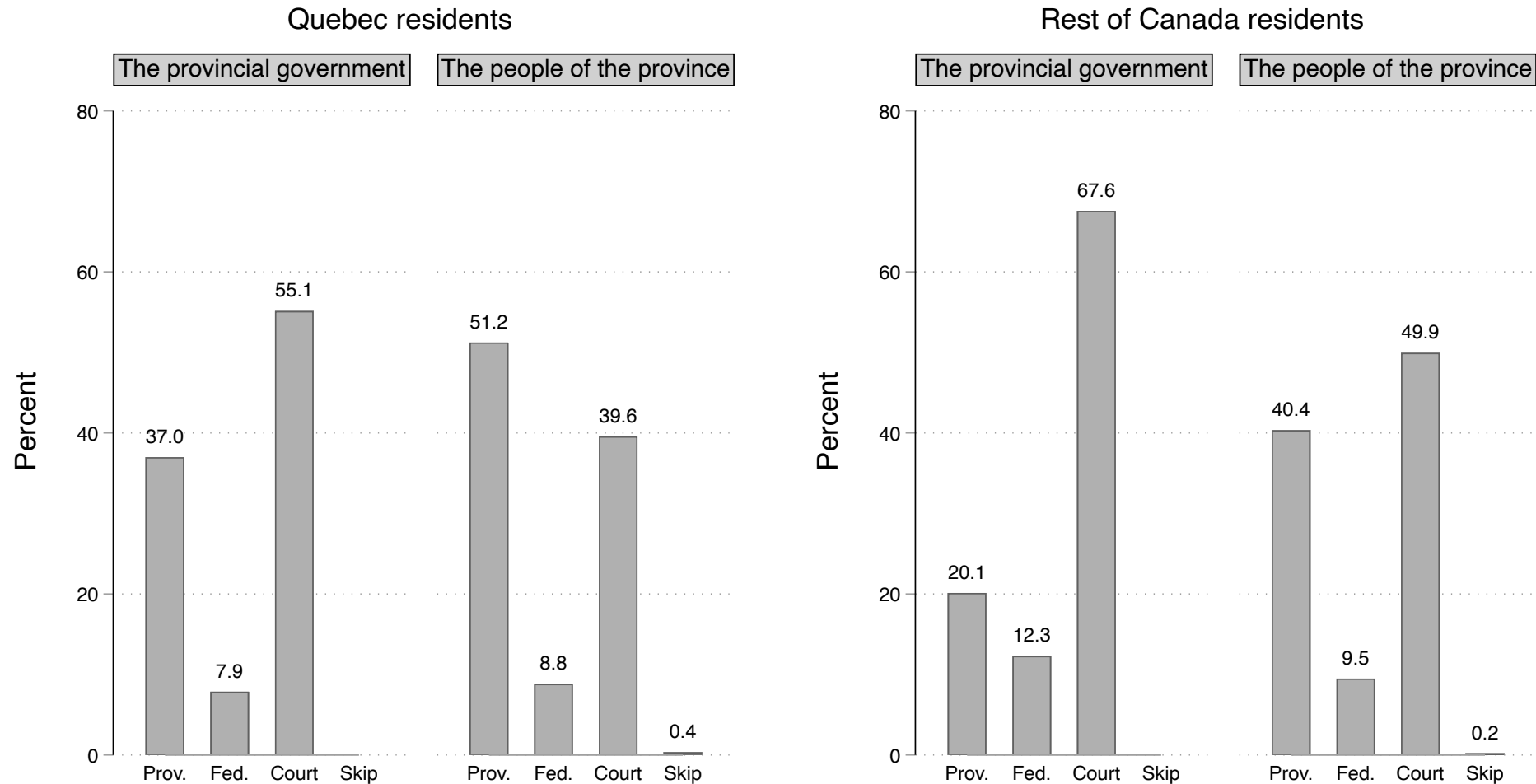
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