



**The Covid-19 Pandemic: Class,
Mental Health and Human Rights**

UJ-HSRC Covid-19 Democracy Survey

The Paradox of Human Rights during a Pandemic

Date: 4 June 2020

National Disasters and Human Rights

- Pronouncement of a state of national disaster does not affect the supremacy of the Constitution or the Bill of Rights – NOT a state of emergency
- However, rights may be limited if *reasonable and justifiable in an open and democratic society* (s 36 of the C)
- So what is reasonable and justifiable in the age of a pandemic? Which rights weigh more heavily than others?

International law

- The International Covenant on Civil and Political Rights permits curbs on the right to “liberty of movement” if restrictions are provided by law, deemed necessary to protect public health and consistent with other rights.
- A national disaster of this nature requires social distancing, quarantine and isolation measures THUS it may be necessary for response measures to limit individual and collective rights. I.e. ‘civil liberties’ have been limited in SA – movement, association, assembly, trade, privacy, education and expression.



Limiting when necessary

- Even in times of national disaster, limitations of rights cannot extend beyond what is necessary & must be in line with constitutional values (dignity, equality, freedom and Ubuntu).
- Checks and balances must be kept in place as the executive remains accountable to Parliament and the courts; Chapter 9 institutions: CSOs and NGOs.
- Government remains responsible for the fulfilment of socio-economic rights during a disaster - access to healthcare, food, water, shelter and social security.



DE BEER v MINISTER OF COTGA

The rationality test is concerned with the evaluation of the relationship between means and ends ... courts are obliged to examine the means selected to determine whether they are rationally related to the objective sought to be achieved. What must be stressed in that the purpose of the enquiry is not whether there are other means that could have been used, but whether the means selected are rationally related to the objective sought to be achieved. And if, objectively speaking, they are not, they fall short of the standard demanded by the Constitution.



DE BEER v MINISTER OF COGTA

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between “plague and famine” as a leading journalist has recently described the situation.

6.11 All the instructions to deal with the pandemic referred to earlier, being the WHO declaration, the declaration of Dr Tau and the DMA self, however go beyond the mere issue of saving lives, some of which, with the greatest degree of sensitivity, international experience has shown, may inevitably

be lost. The object is, if one is not able to completely prevent the spread of the infection, to at least attempt to limit the spread or the rate of infection whilst at the same time maintain social cohesion and economic viability.

All these instruments, and in particular the enabling legislation, commit to this. Sections 27(2) and 27 (3) of the DMA states the aim thereof to be “*assisting the public, providing relief to the public ... and ... dealing with the destructive effect of the disaster*”.

Fairness and dignity

- [The Siracusa Principles](#), any limitations must be of limited duration and subject to review, *and must not discriminate unfairly*.
- In a report by UNAids (2020), the emphasis is placed on participation as a fundamental principle of human rights. All government policy and action must allow for the direct and meaningful participation of communities – particularly those affected and most vulnerable.
- Heed must be taken of hardship and suffering, and the dignity of all.

- “Please Mr President endure all citizens are looked after we are personally suffering very bad and without work I fear we might die of hunger because I cannot earn Money and nobody is helping us” - White man, 18-24 years, Athlone Cape town, Western Cape

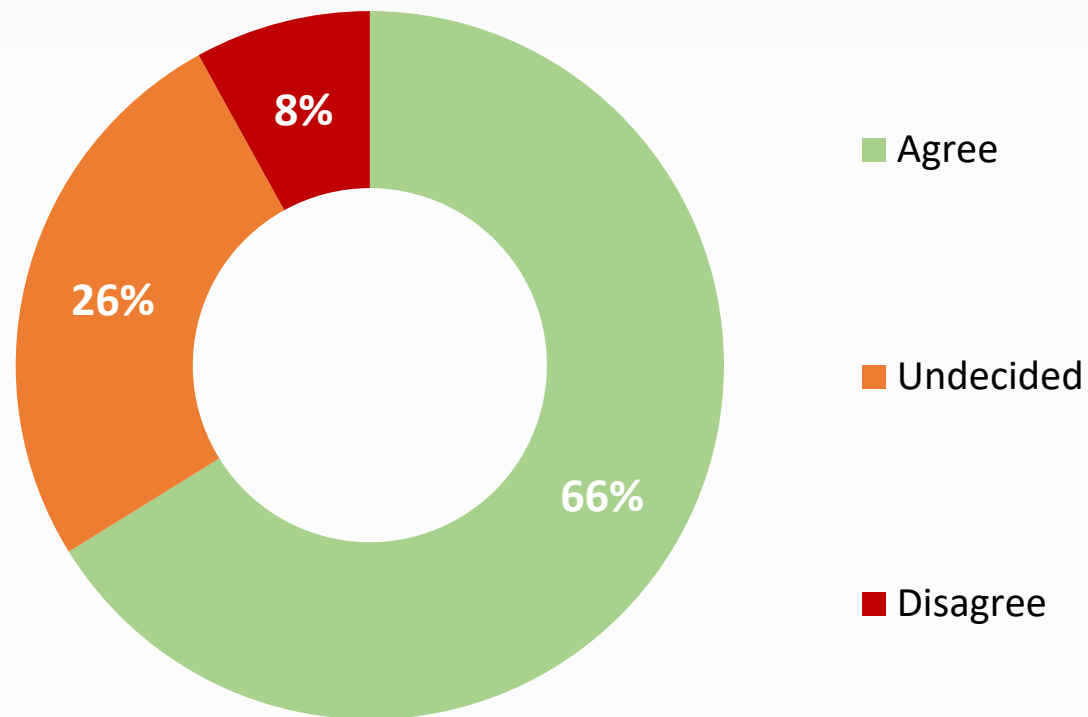


- Just be fair to all, be honest and make SA WORK” – Indian man, 45-54 years, Phoenix, KwaZulu-Natal



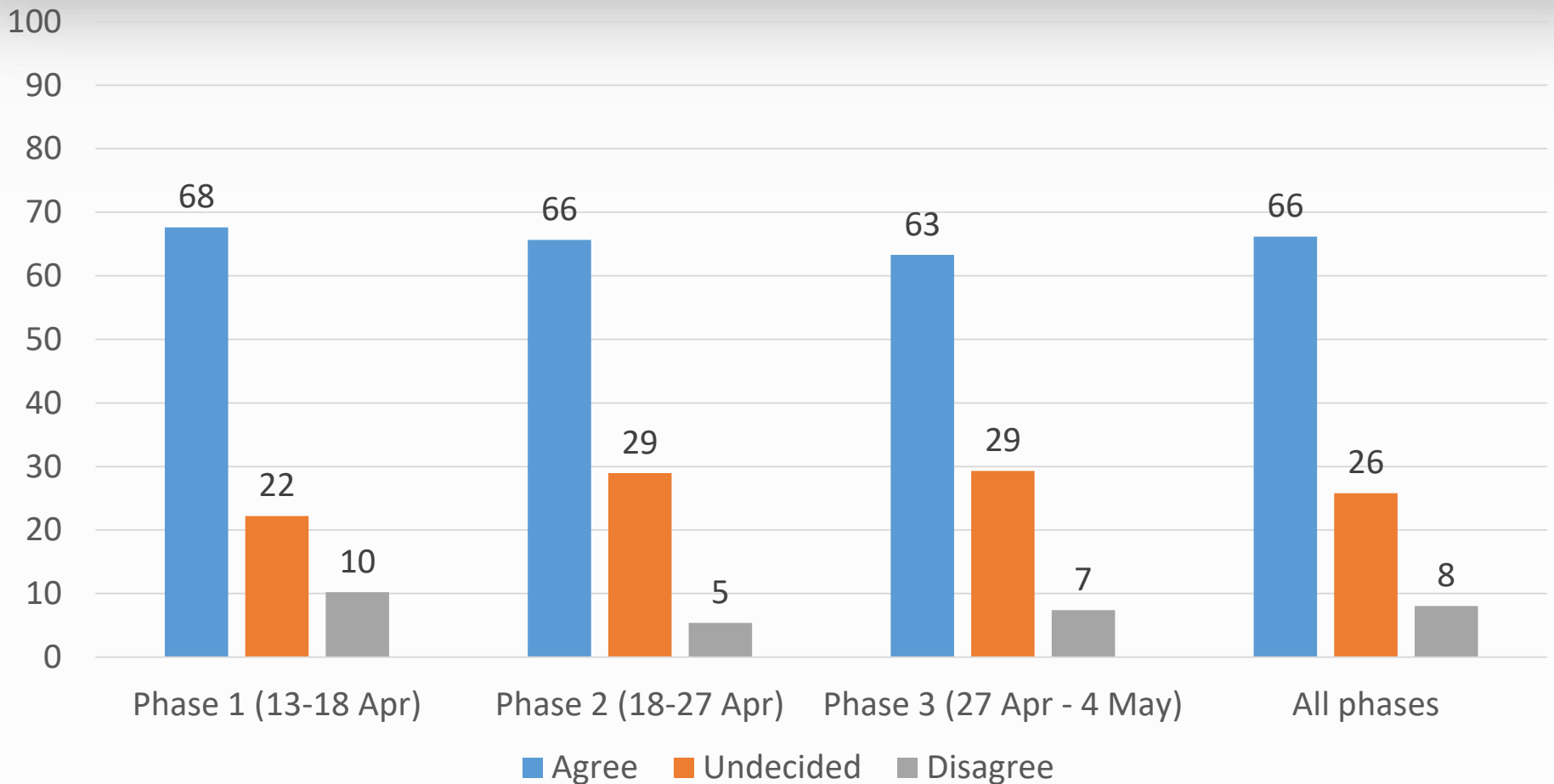
Willingness to sacrifice human rights

I am willing to sacrifice some of my human rights if it helps prevent the spread of Covid-19



Source: UJ/HSRC Covid-19 Democracy Survey, opt-in survey, 12312 respondents weighted to population

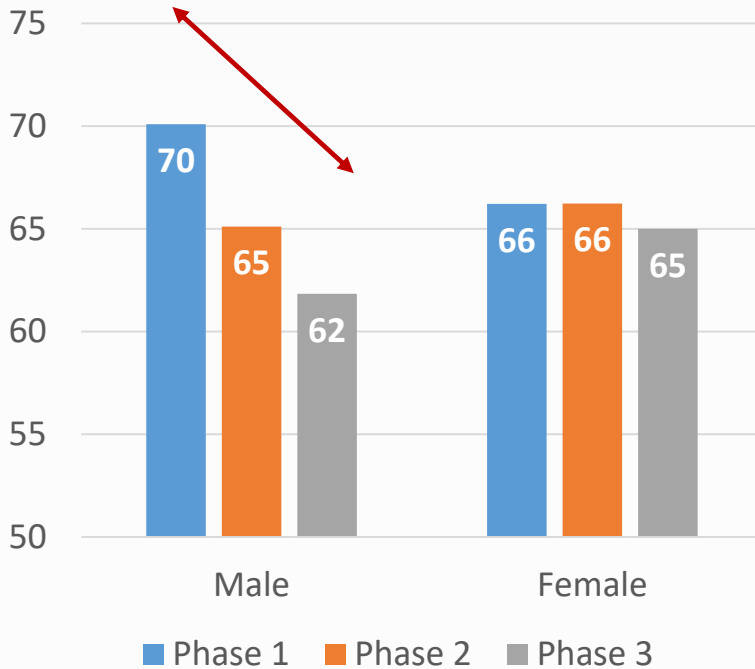
Willingness to sacrifice human rights, by phase of surveying



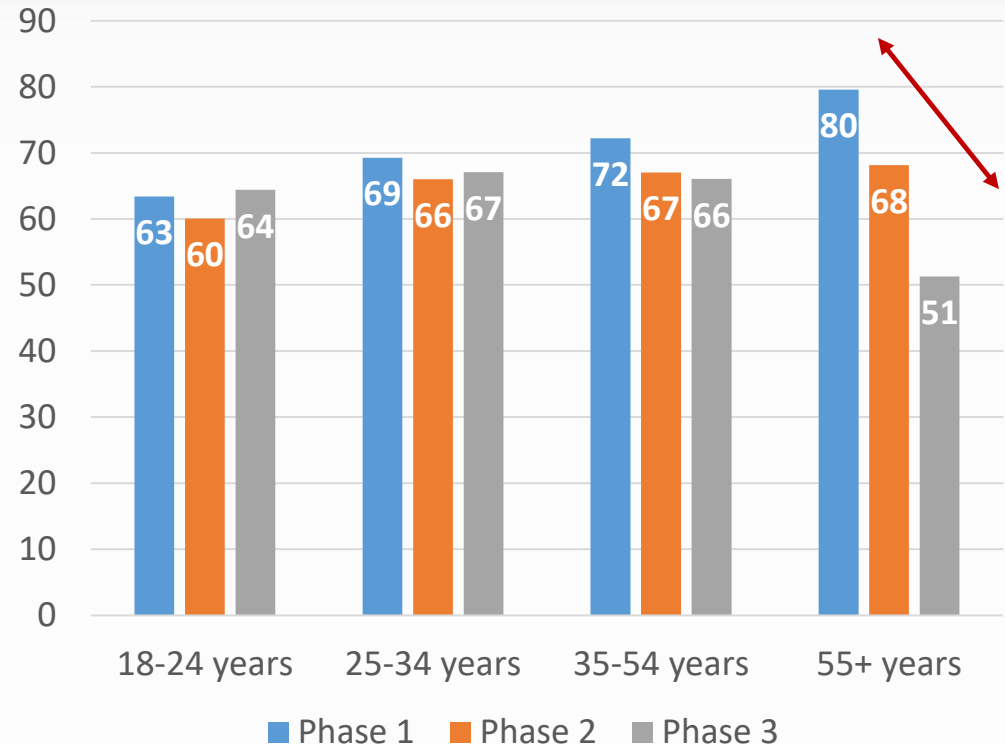
Source: UJ/HSRC Covid-19 Democracy Survey, opt-in survey, 12312 respondents weighted to population

Likely correlates of willingness to sacrifice some human rights: Socio-demographic variables

Changes by Gender, phases 1-3 (%)



Changes by Age group, phases 1-3 (%)

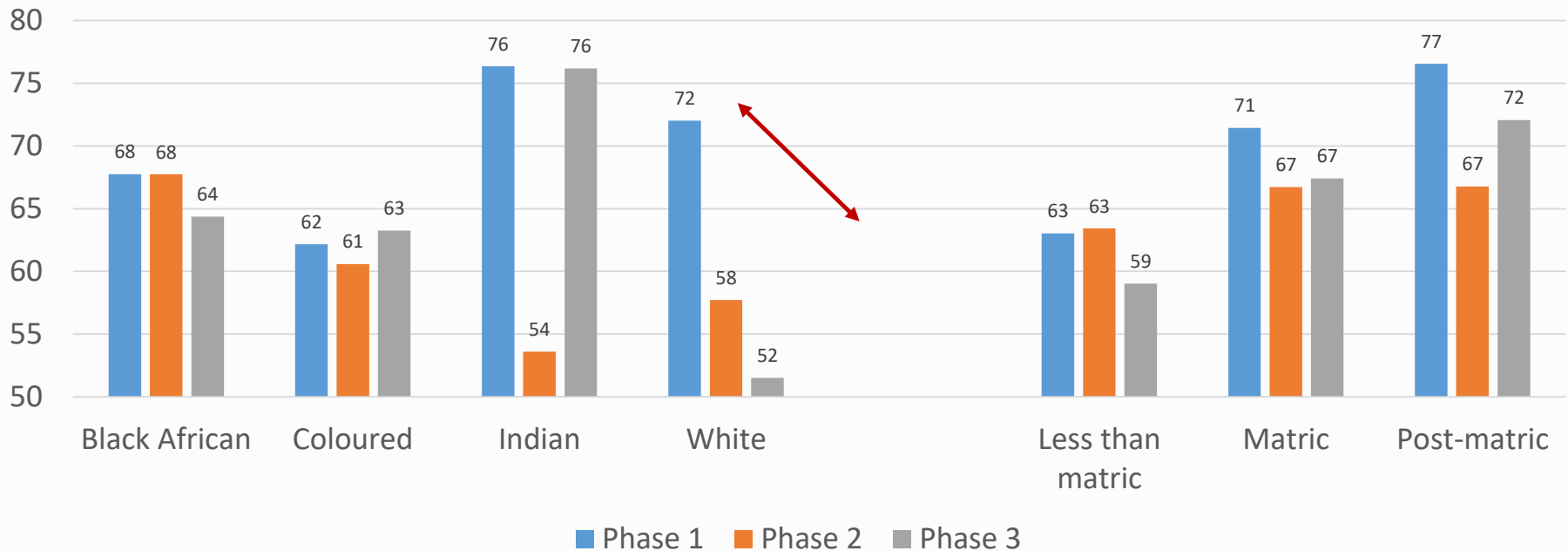


GENDER: Willingness to sacrifice has declined for men between phases 1 and 3, but gender is ultimately not a significant predictor.

AGE: 18-24 year-olds significantly lower than those aged 25-34 and 35-54 years. Sharp decline among older citizens

Likely correlates of willingness to sacrifice some human rights: Socio-demographic variables

changes by population group and educational attainment, phases
(%)



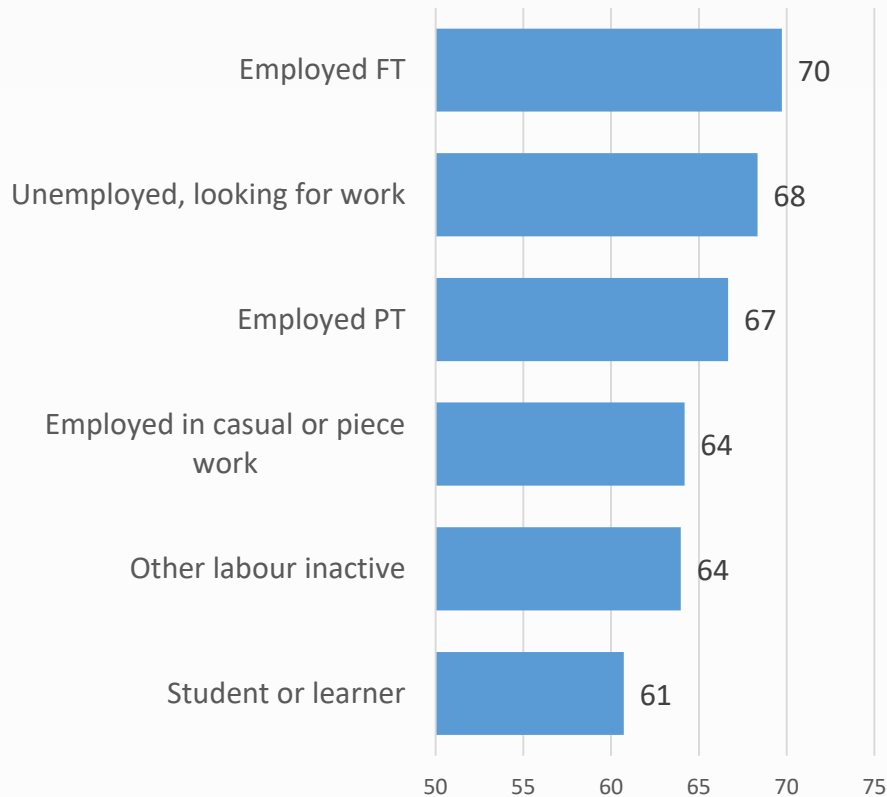
POPULATION GROUP: Coloured adults are on average less willing to sacrifice some human rights than black African adults, controlling for phase of surveying. Significant decline among white adults after phase 1.

EDUCATION: Those with a post-matric qualification are significantly higher willingness to sacrifice than those with less than matric.

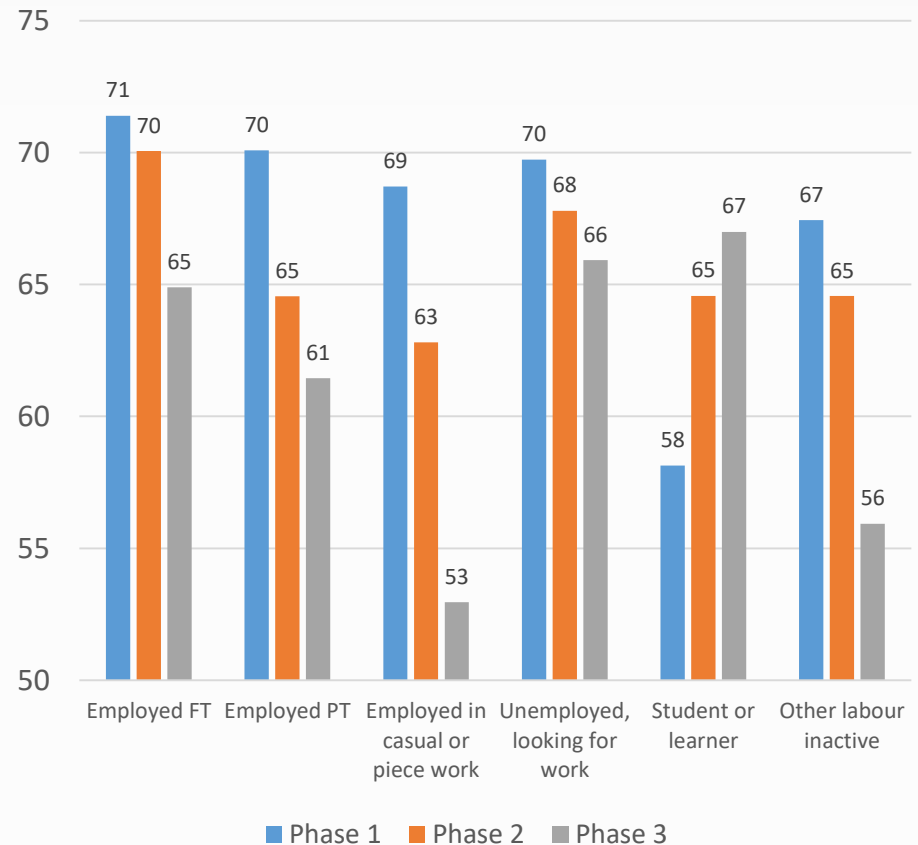
Mr President, please can you be honest with the South African public about what you are doing and why where your approach to this pandemic is concerned? We wait weeks for actual details to 'the plans'. People are hungry. Please consider making decisions for the South African narrative, we are not a first world country and those approaches don't work. When all this is through, what will this country look like with the economy in shatters? It is a future reality that makes me very sad. And please respect our human rights, it seems that they are being sacrificed in the name of Covid 19. - Coloured woman, 25-34 years, Pinelands, Western Cape.

Likely correlates of willingness to sacrifice some human rights: Socio-demographic variables

Average all 3 phases (ranked)



Changes, Phases 1-3



Source: UJ/HSRC Covid-19 Democracy Survey, opt-in survey, 12312 respondents weighted to population



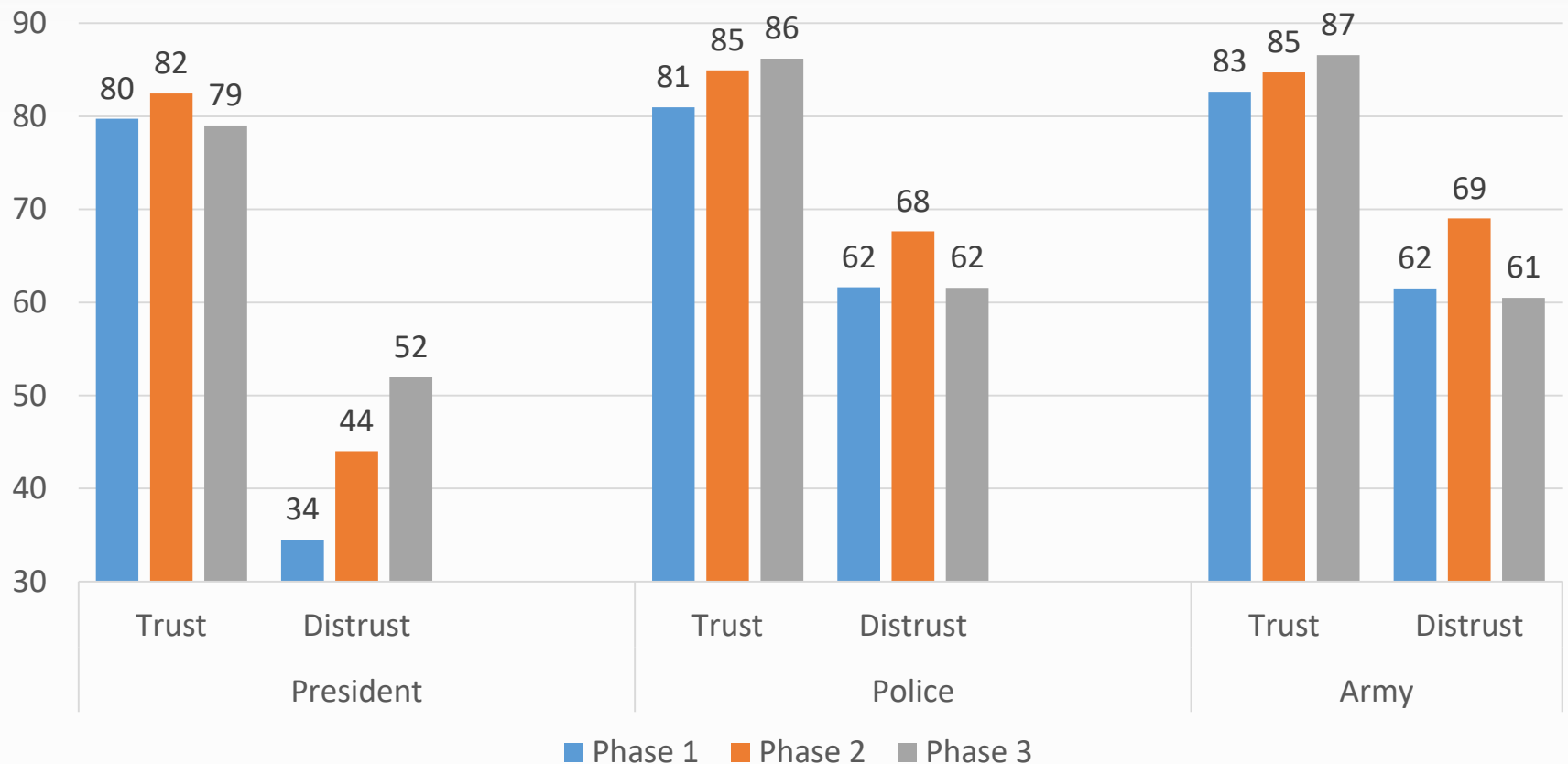
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- “Thanks for everything but please we are hungry” - Black African woman, 25-34 years, Lady frere emacubeni platkop, Eastern Cape
- “Dear Mr President I love you so much and you are a very smart man u give us hope as the nation and for that thank you... but we are hungry as your nation not only hungry but we cant afford to buy essential stuff we dont have any soap” - Black African woman, 25-34 years, Buhle park, Germiston, Gauteng

Likely correlates of willingness to sacrifice some human rights: The trust factor

Willingness to sacrifice by trust and phase of surveying (%)

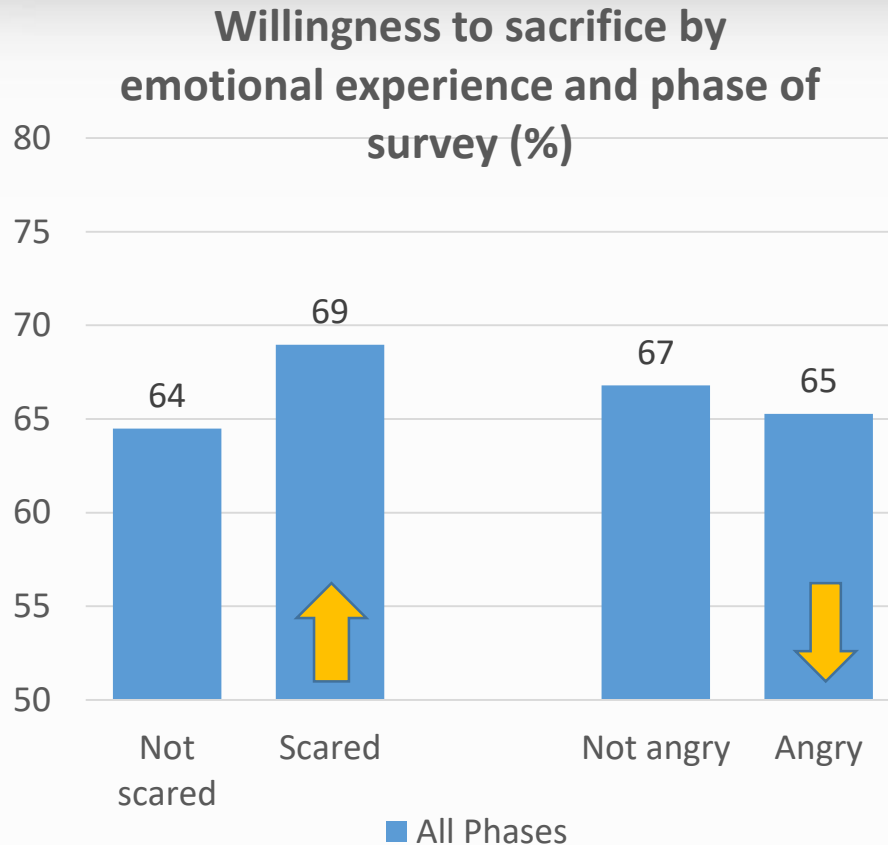


Source: UJ/HSRC Covid-19 Democracy Survey, opt-in survey, 12312 respondents weighted to population

- “We trust you Mr President But think for us . Don't be strict for nothing we are hungry” - Black African man, 35-44 years, Deyvton, Gauteng
- “Mr President I would much appreciate if u could help the poorest people of our country to be able to overcome Covid19 lockdown most of the poorest people in our country don't have financial support they support themselves. Now its difficult during this time most of us go to sleep Hungry and Wake-up hungry. We need HELP” - Black African man 25-34 years, Mogwase, North West



Likely correlates of willingness to sacrifice some human rights: Emotional experiences during lockdown



- Regression analysis shows that **feeling scared** increases the willingness to sacrifice some human rights, controlling for phase of survey
- **Feeling bored, irritable or angry** reduces the willingness to sacrifice, controlling for phase of survey.
- The effects are however not especially large

Note: Depression does not significantly correlate with willingness to sacrifice

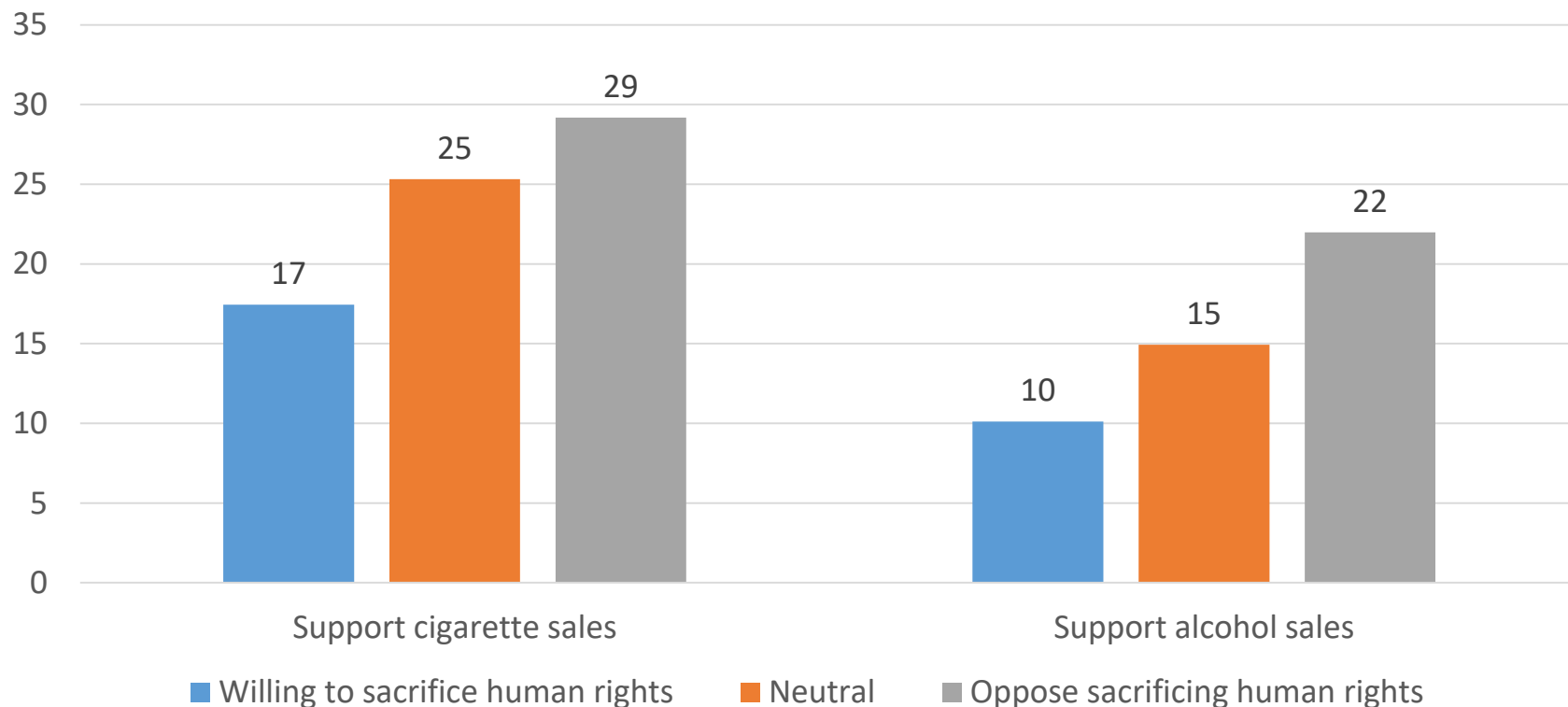
Source: UJ/HSRC Covid-19 Democracy Survey, opt-in survey, 12312 respondents weighted to population

- “Please open the liquor stores Mr president, it's our constitutional right to alcohol” – Coloured woman, 18-24 years, Pelican Park, Western Cape
- “I salute you for making tje ompossible choice...but please mr presidentgive us a bit of freedom and lift the ban on siggarettes”, White man, 25-34 years, Daggafontein, Springs, Gauteng.



Willingness to sacrifice some human rights and views on tobacco and alcohol sales

Support for tobacco and alcohol sales, based on willingness to sacrifice some human rights (% average)



Source: UJ/HSRC Covid-19 Democracy Survey, opt-in survey, 12312 respondents weighted to population

Trust, Altruism and Social Solidarity

- Social solidarity emphasises the interdependence between individuals in a society, which allows individuals to feel that they can enhance the lives of others. It is one of the core principles of collective action for the common good.
- Trust, reciprocity, and altruism can advance solidarity and collective action within a rights-based framework, strengthening the overall response to COVID



If trust is to be maintained,
the establishment of
platforms for collective
action and citizen
participation are necessary.



The Paradox

- Human rights are used as a symbol for liberalism, capitalism or individualism by some and for development, social justice or peace by others.
- The ideological power of human rights lies in the oscillation between law's order and the desire for a better world.

Rights have a double meaning -

They are (legal) claims to be admitted to the privileges of the law *and* (political) demands to have the whole of the law (and society) improved or changed.

It is in your hands now



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“Trust your citizens to do the right thing for themselves, their families and their communities, society at large. Stop your ministers from treating us like children who need to be micromanaged and punished for any inadvertently breaking a rule. If the police and army can't be kind in the face of the pandemic then take them out of the townships. If you have to kill people to force them to comply with the lockdown what is the point? This is a marathon and if you want us to have the strength and energy to continue to act responsibly for the many months we need to get to some sort of finish line, you need to trust us more and 'beat' us less. Help us continue to respect you and your decisions for the benefit of our whole society, by showing your mutual respect for us and our civil liberties, humanity and hard won freedoms” -
Female, 45-54 years, Kenilworth, Western Cape



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