

Japanese-South Korean Relations in 2021

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Today's Outline

- Current state of Japan-South Korean relations
- 1) Long-term trends
- 2) Changes since 2013
- 3) Differences in political situation of Japan and South Korea
- Unique conditions of 2021
- 1) Essentially the final year of the Moon Jae-in administration
- 2) Loss of leadership by Suga administration and Japanese general election
- 3) Intervention by the Biden administration?
- Specific policies?
- 1) ICJ/Arbitration panel organization and changes in South Korea
- 2) Can politicians take risks?
- 3) “Irresponsible in a good way”

The **BURDEN** of the **PAST**



Problems of
Historical Perception
in Japan-Korea Relations

Kan Kimura

Translated by Marie Speed
Foreword by Gi-Wook Shin

Trends in Historical Issues as Seen in *Chosun Ilbo* Articles

	일본+교과서	위안부	정신대	야스쿠니/ 야스꾸니	신사+참배	일본+독도	일본+독립운 동	친일파	일본+배상
	Japan + Textbook	Comfort woman	Volunteer labor corps	Yasukuni	Shinto shrine + Worship	Japan + Dokdo/ Takeshima	Japan + I ndepedence movement	Japanese collaborator	Japan + Compensation
	日本+ 教科書	慰安婦	挺身隊	靖国	神社+参拝	独島	独立運動	親日派	日本+賠償
1945-49	0	0	0.0016	0	0	0.0243	0.0089	0.0251	0.038
1950-54	0	0	0	0	0	0.0844	0.0075	0.0021	0.0139
1955-59	0.0006	0	0	0	0	0.0135	0.0188	0.0009	0.0074
1960-64	0	0	0	0	0	0.0112	0.013	0.0004	0.0049
1965-69	0.0006	0	0	0	0	0.0198	0.0207	0.0008	0.0023
1970-74	0.0005	0	0	0.0011	0.0012	0.005	0.0077	0	0.0014
1975-79	0.0004	0.0002	0	0.0002	0.0004	0.0185	0.009	0.0002	0.0011
1980-84	0.0555	0	0.001	0.0002	0.0019	0.0095	0.0094	0	0.0008
1985-89	0.0152	0	0.0008	0.0004	0.0025	0.0084	0.0154	0.0004	0.0008
1990-94	0.0068	0.098	0.1757	0.0034	0.018	0.0327	0.0484	0.0056	0.0079
1995-99	0.0084	0.0364	0.0169	0.0019	0.0064	0.0542	0.0618	0.0016	0.0111
2000-04	0.0233	0.0332	0.0058	0.0125	0.029	0.0457	0.0371	0.0034	0.0029
2005-09	0.0114	0.0242	0.0034	0.0265	0.0193	0.1594	0.0406	0.0076	0.0025
2000-14	0.0148	0.0786	0.0051	0.0221	0.0176	0.1031	0.0182	0.003	0.0055

Share of Main Trading Partners with South Korea

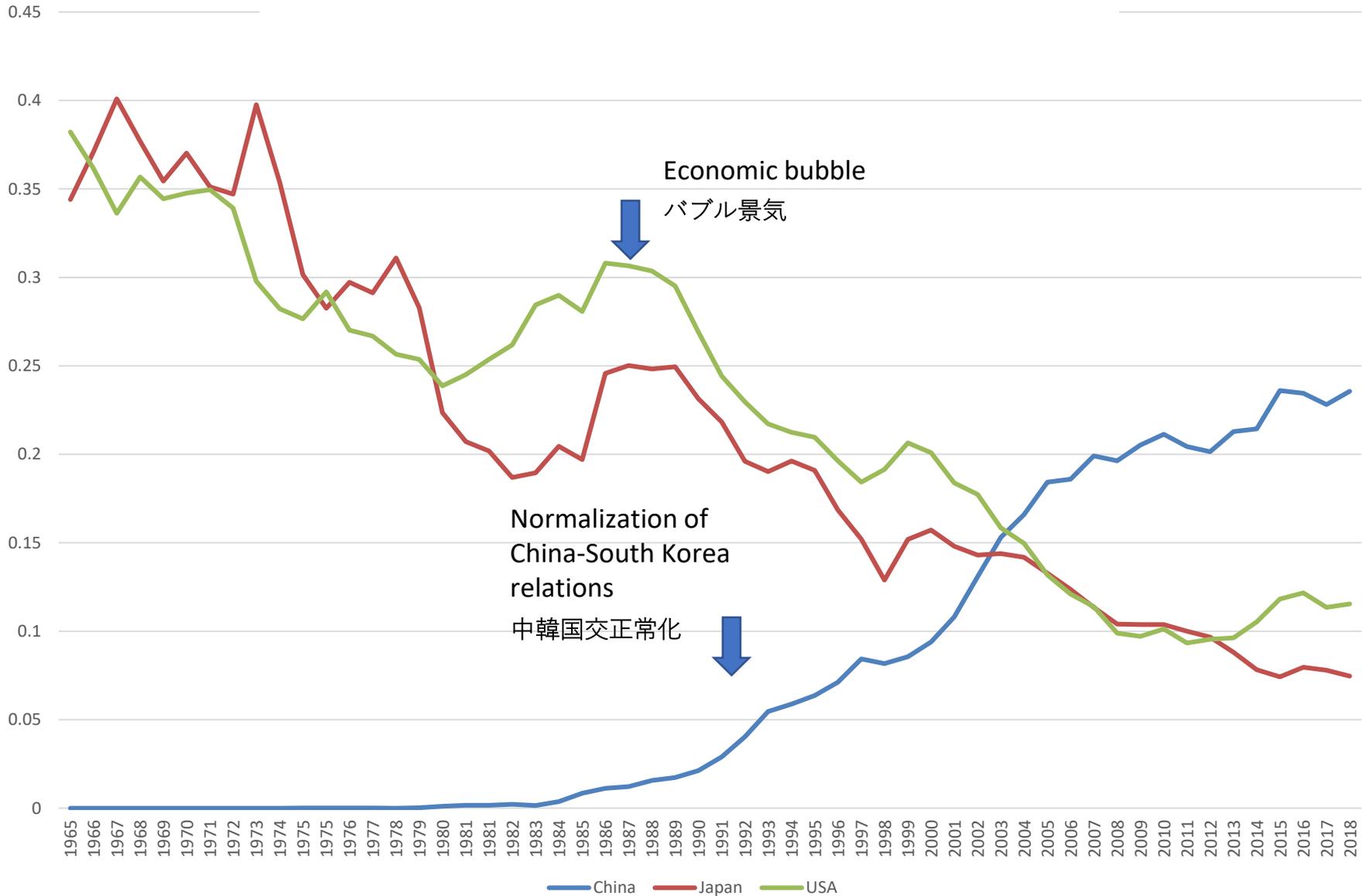
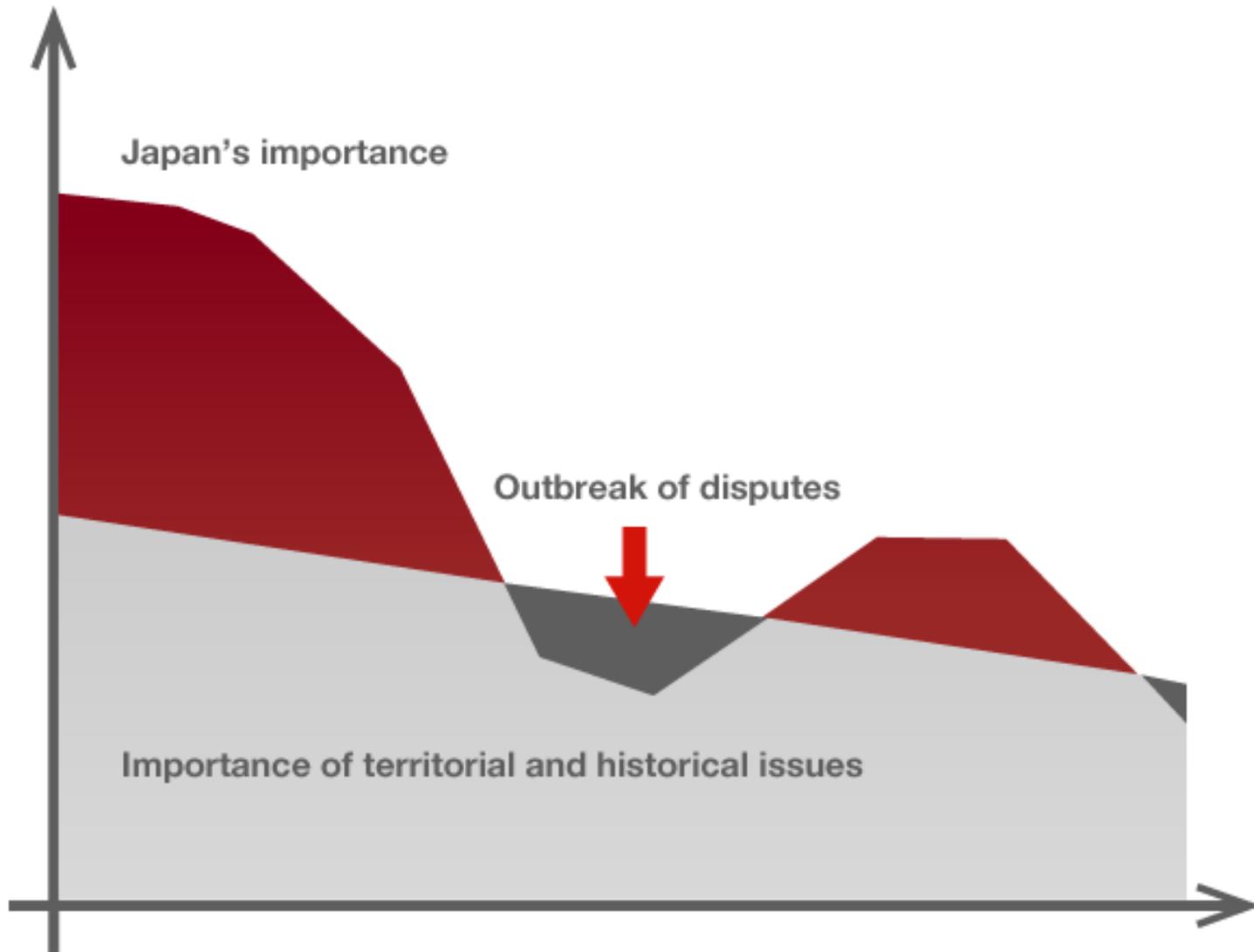


Figure 2 Schematic Model of Japan–South Korea Disputes



Note: The vertical axis represents the degree of importance, and the horizontal axis represents the passage of time. Disputes are liable to break out when Japan's importance to South Korea falls below the importance of territorial and historical issues.

Basic Structure

- The positions of the Japanese and South Korean government on historical issues
- Japan
 - 1) Consistently “Settled with the Settlement Agreement” (according to the government and the judiciary)
 - 2) The Kono Statement is the official position on comfort women
- South Korea
 - 1) Same position as Japanese government until January, 1992
 - 2) At one point in the Kim Young-sam administration, “We will not request material compensation”
 - 3) Roh Moo-hyun administration laid out the points of contention (three exceptions)
 - 4) Since 2011, judiciary’s interpretation of the agreement changed

Interpretation of Settlement Claims in South Korea

- Mid-Roh Tae-woo administration: Settled with the Settlement Agreement
 - At a summit, PM Miyazawa apologized [Settled according to Japanese government 1]
- End of Roh Tae-woo admin.: Requests “compensation and investigation” for comfort women issue
- Early Kim Young-sam admin.: “Will not request material compensation/Request investigation”
 - Kono Statement (+Asian Women's Fund) [**Settled according to Japanese government 2**]
- Late Kim Young-sam admin./Kim Dae-jung admin.: “Government will not intervene”
- Roh Moo-hyun admin.: “Comfort women issue, Koreans left in Sakhalin, and Korean hibakusha are not included”
- Lee Myung-bak admin.: Ruling on comfort women unconstitutional (2011) and ruling on wartime laborers remanded (2012)
- **→ Since then, court decisions have been a greater factor than the government in changing the situation**
- Park Geun-hye admin.: Decision on wartime laborers prolonged, agreement on comfort women [**Settled according to Japanese government 3**]
- Moon Jae-in admin.: Decisions accepting seeking compensation outside the Settlement Agreement for wartime laborers (2018) and comfort women (2021)
 - South Korean government “will not interfere with the judiciary” (abandoning control and management)

Difference in Judicial “Culture”

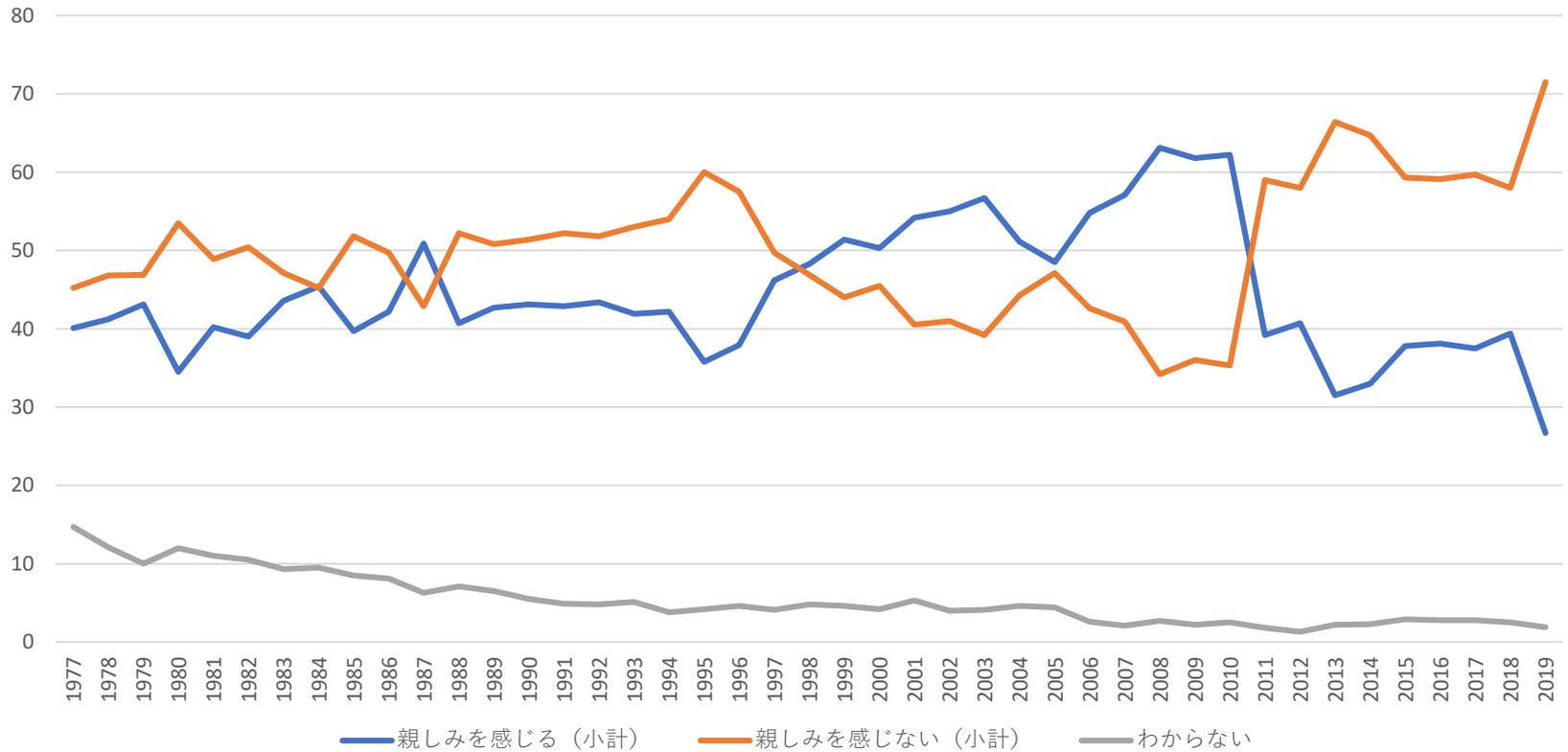
- Japan: Judicial passivism
 - ○Emphasize stable interpretation of law
 - ○Tendency to respect government decisions
 - ○International law is above the constitution
- South Korea: Judicial activism
 - ○Actively incorporating the zeitgeist into legal interpretation
 - ○Judiciary actively challenges government decisions
 - ○Constitution is above international law
 - ○Underlying reason is a concept of “democratization (of the judiciary)”
- → Caused differences in interpretation of democratization in South Korea

Public Opinion as a Stopper

- Opinions toward the other country in Japan and South Korea are the worst they have ever been
- Neither country has any intention to concede on historical issues, etc.
- Opposition party supporters also agree with taking a hardline stance against the other country
- However, the political importance of Japan-South Korean relations is decreasing, and changes in the relationship (already) have no effect on support for the government/ruling party in either Japan or South Korea

Worst Japan-South Korea Relations Ever

Japanese People's Affinity for South Korea

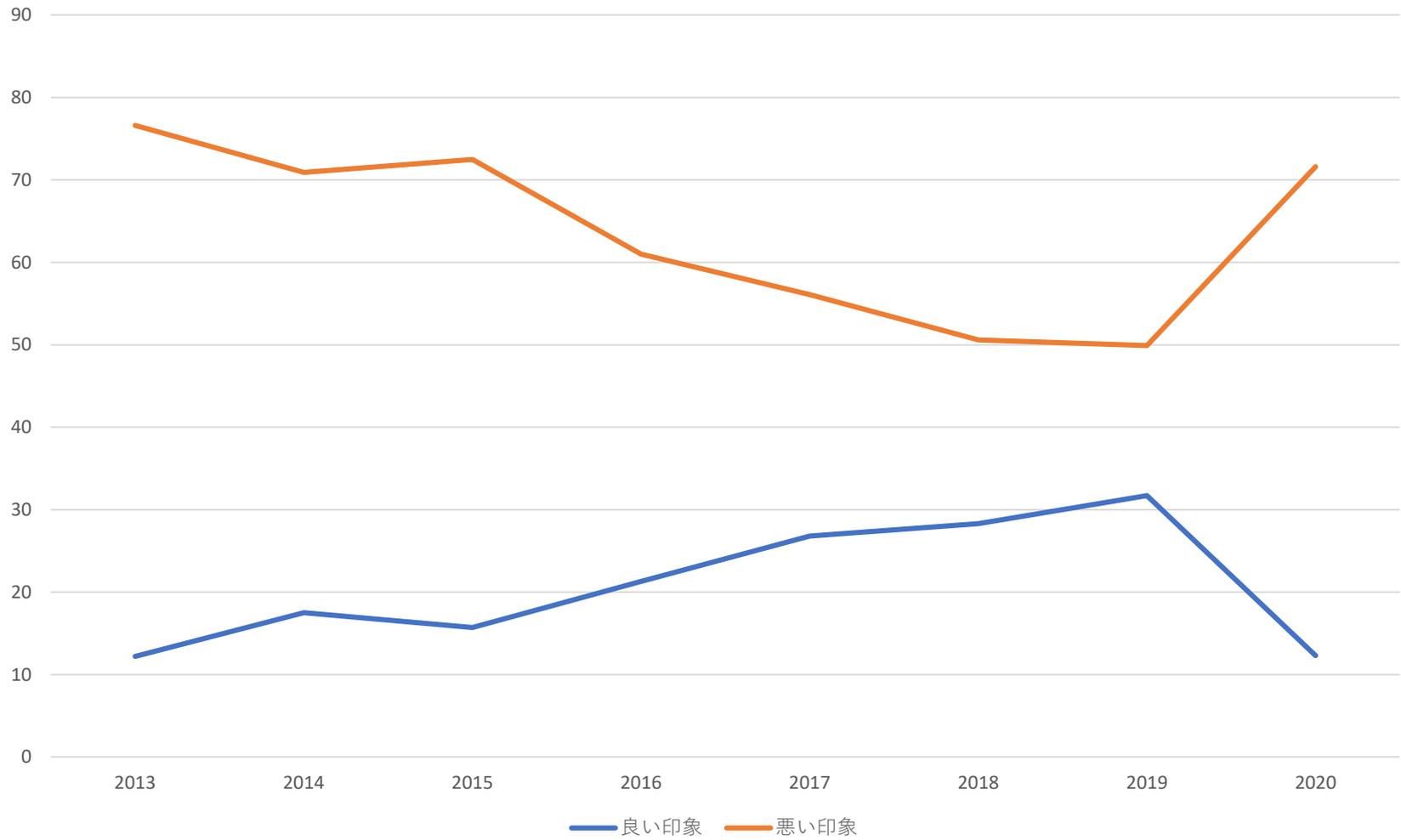


Blue: Feel affinity (subtotal)

Red: Do not feel affinity (subtotal)

Grey: Don't know

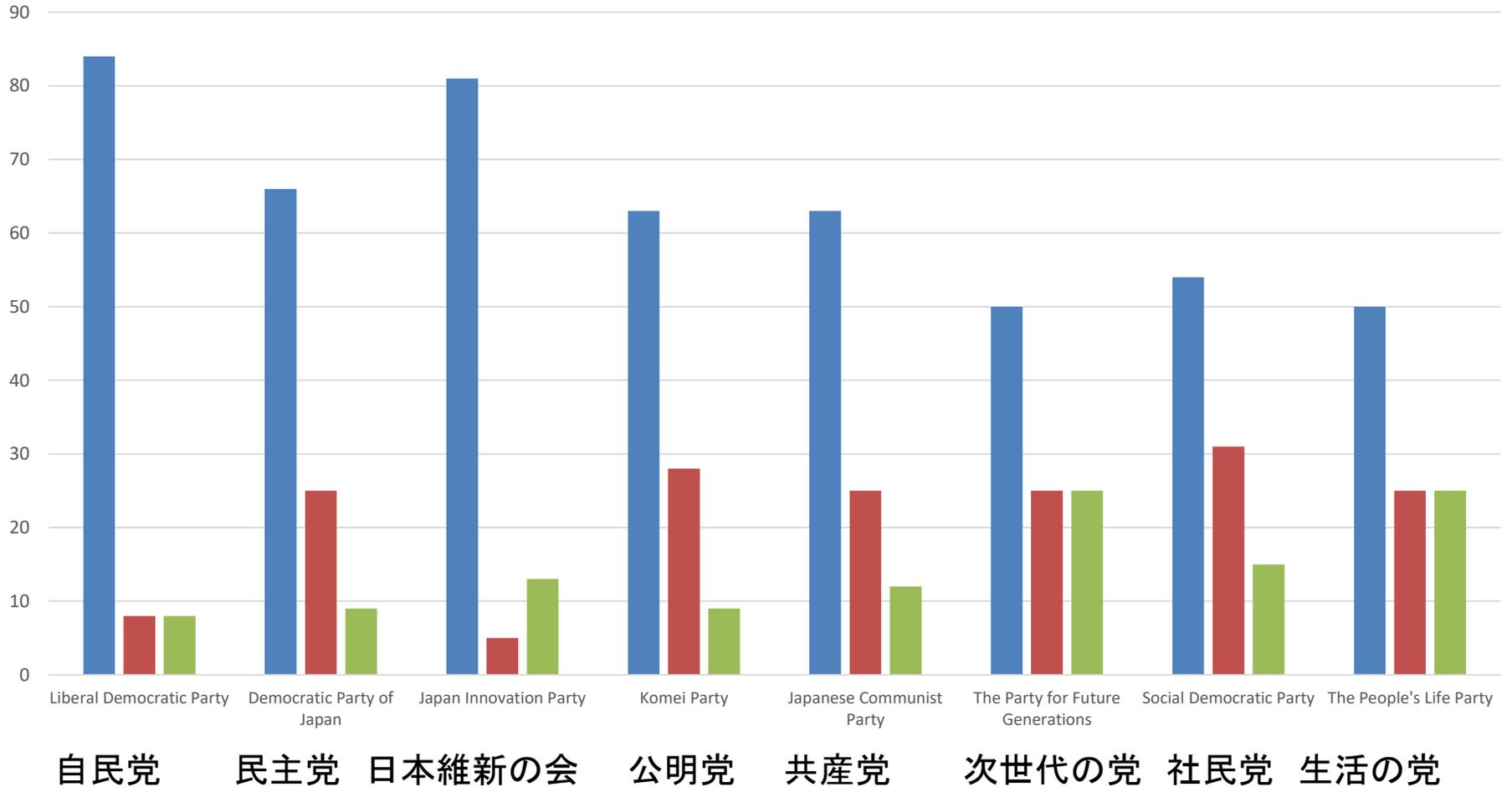
South Koreans' Impression of Japan



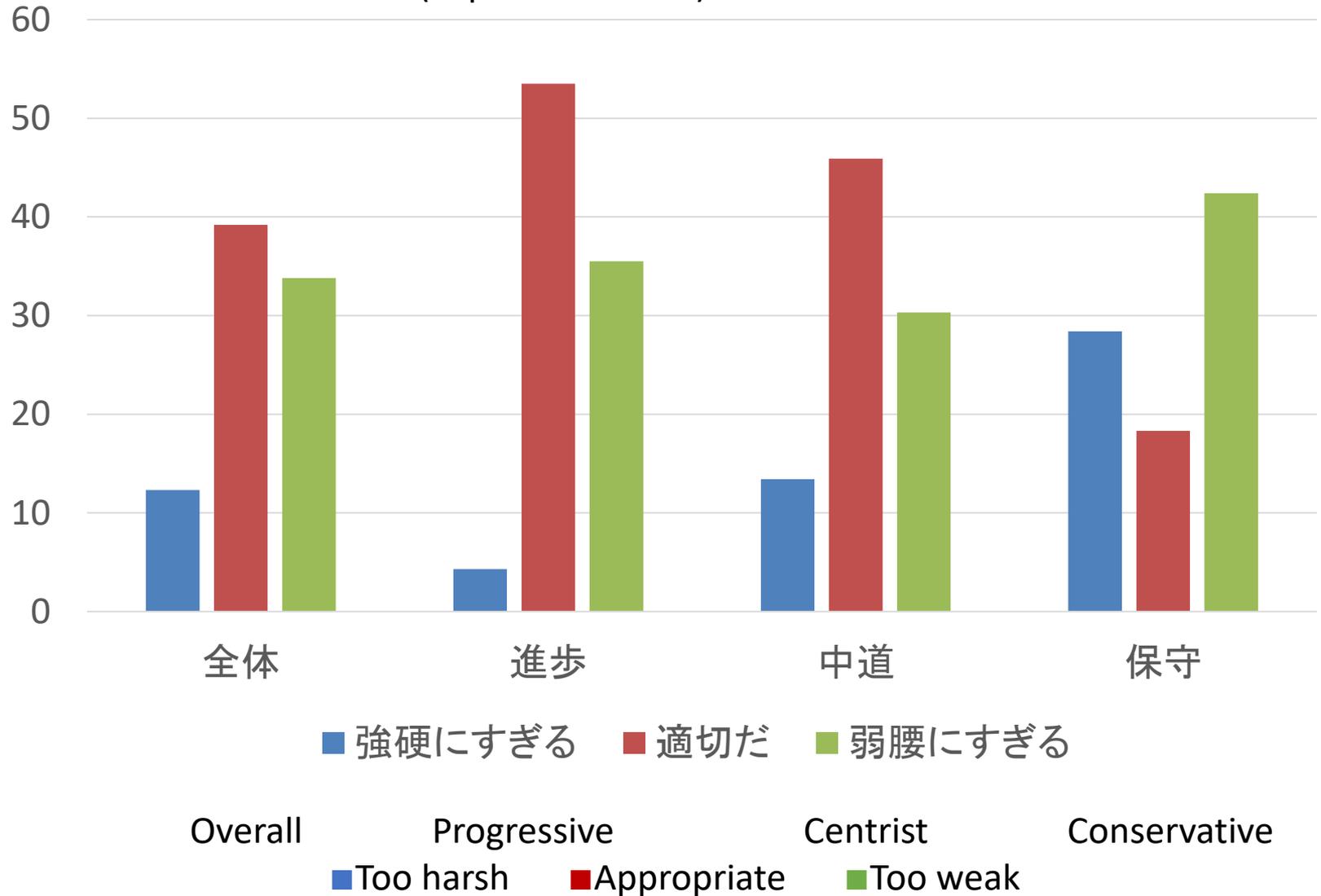
Blue: Good impression Red: Bad impression

Do you support the government's position on the comfort women issue? (2015)

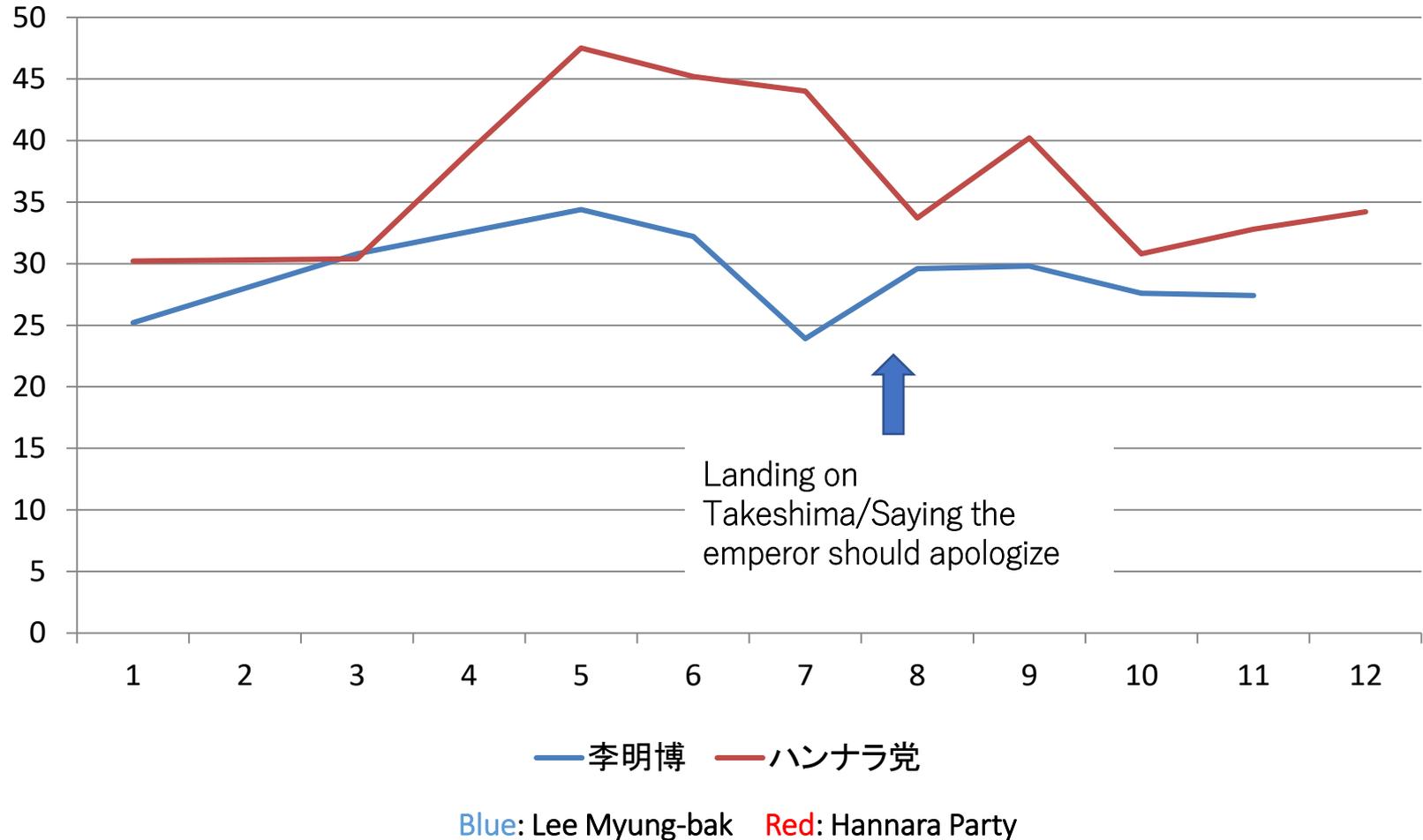
■ support ■ Do not support ■ DK.NA



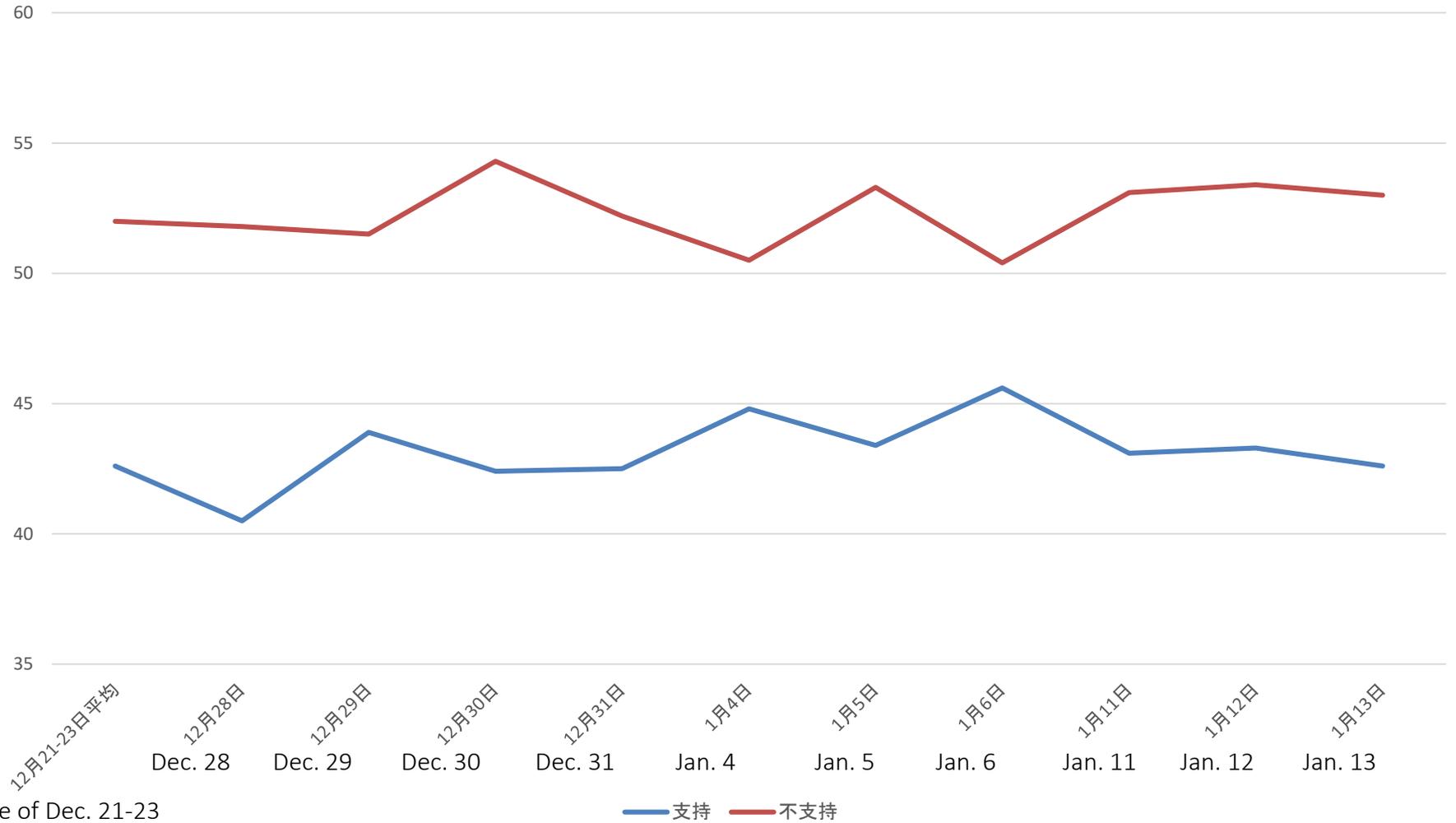
Support for Policy on Japan After Export Controls by Moon Jae-in Administration (September 2018)



2012 Lee Myung-bak/Ruling party Approval Rating (Gallup Korea)



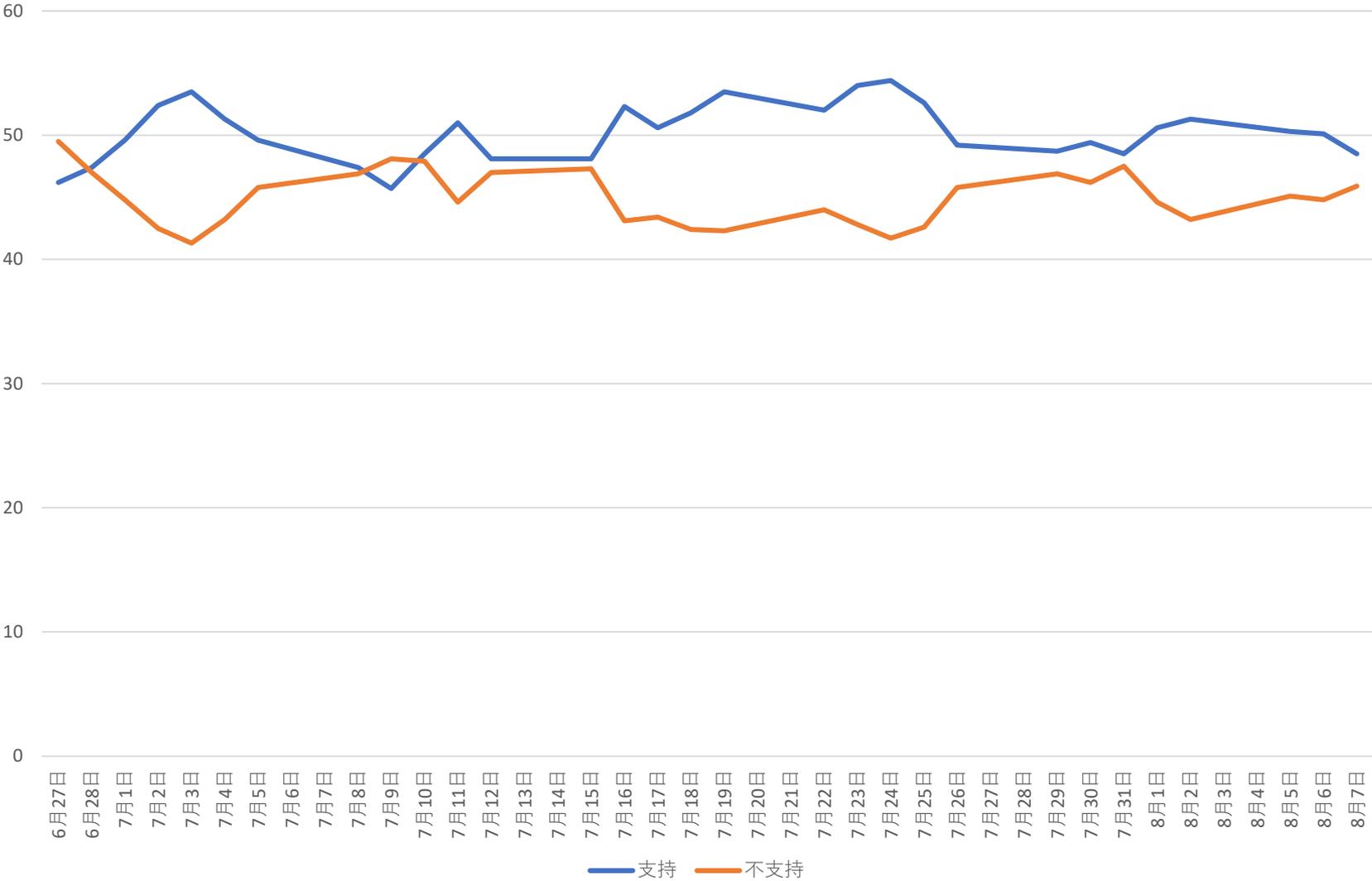
Approval Rating Around the Comfort Women Agreement



Average of Dec. 21-23

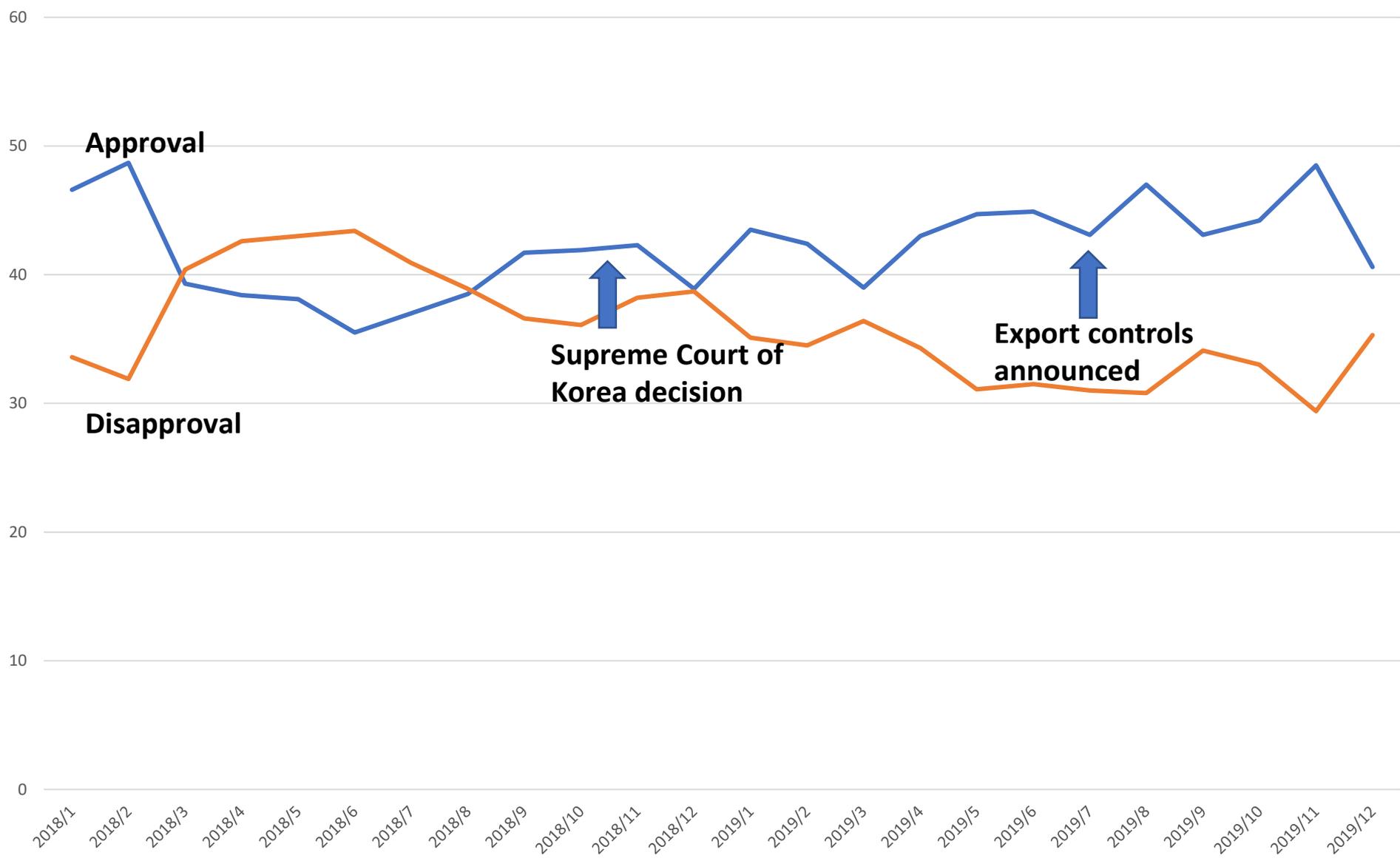
Blue: Approval Red: Disapproval

Approval Rating Around 2019 Export Controls



Blue: Approval Red: Disapproval

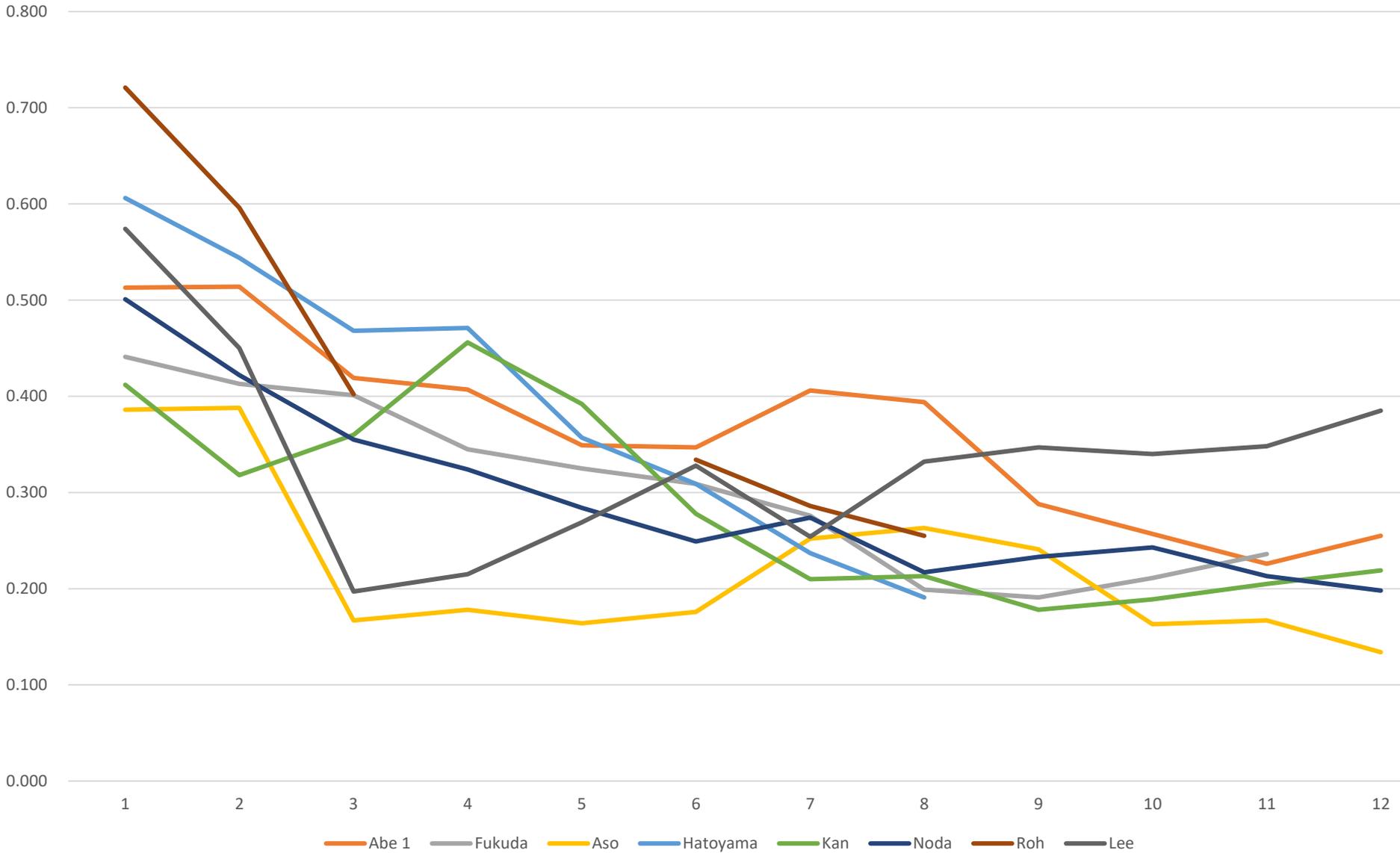
Second Abe Administration Approval Rating



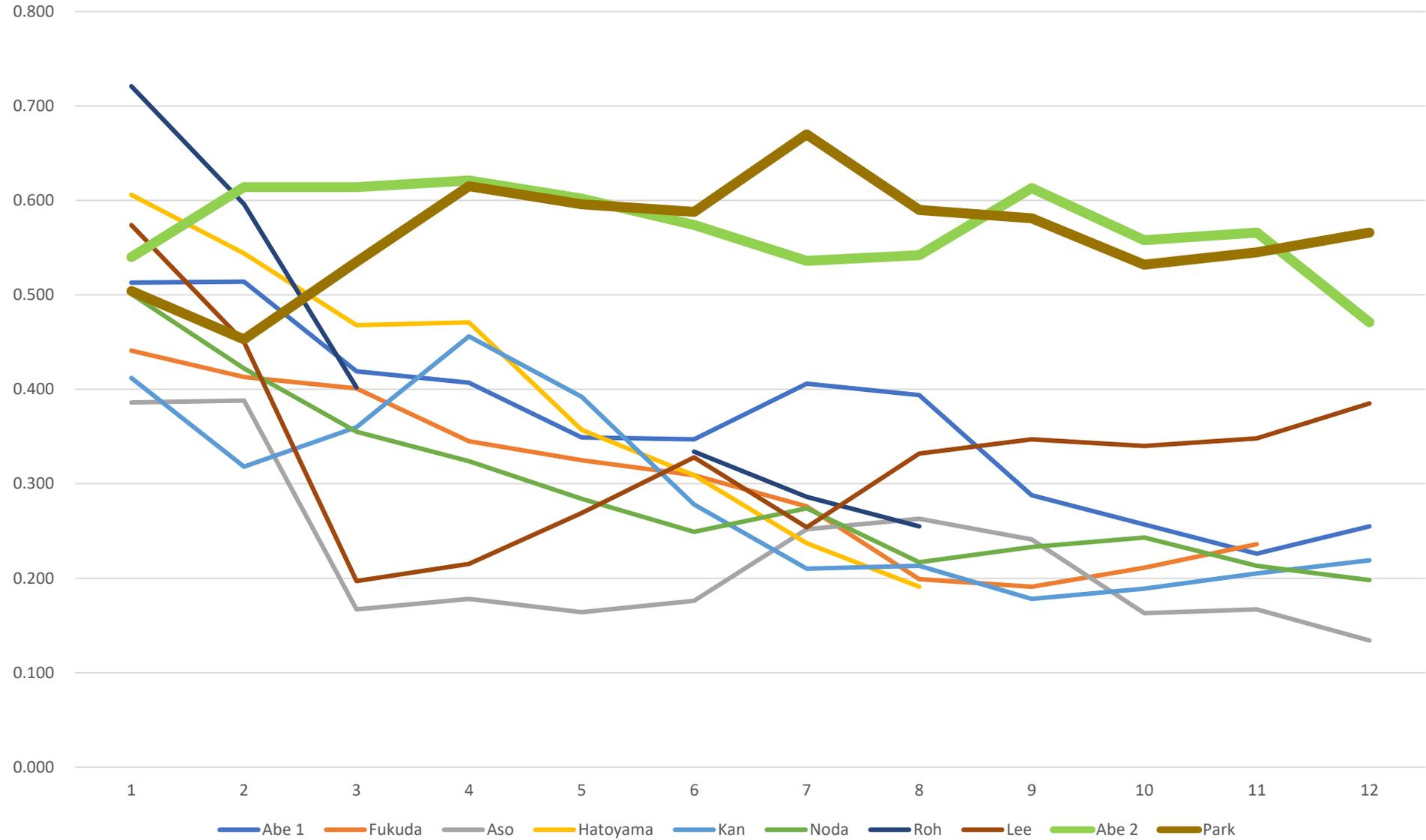
Political Environment in 2021

- Essentially the final year of the Moon Jae-in administration
- 1) Seoul and Busan mayoral elections in April
- 2) Primaries will begin in earnest around autumn
- 3) Will he become a lame duck, or not?
- Suga administration having difficulties as approval drops
- 1) Prolonged COVID-19 pandemic and declining approval rating
- 2) Approval rating will definitely recover if the Olympics are held
- 3) Lowered approval rating will increase pressure for the general election
- → With elections waiting in both Japan and South Korea, there is a high chance of more drastic partisan performances by politicians in each country

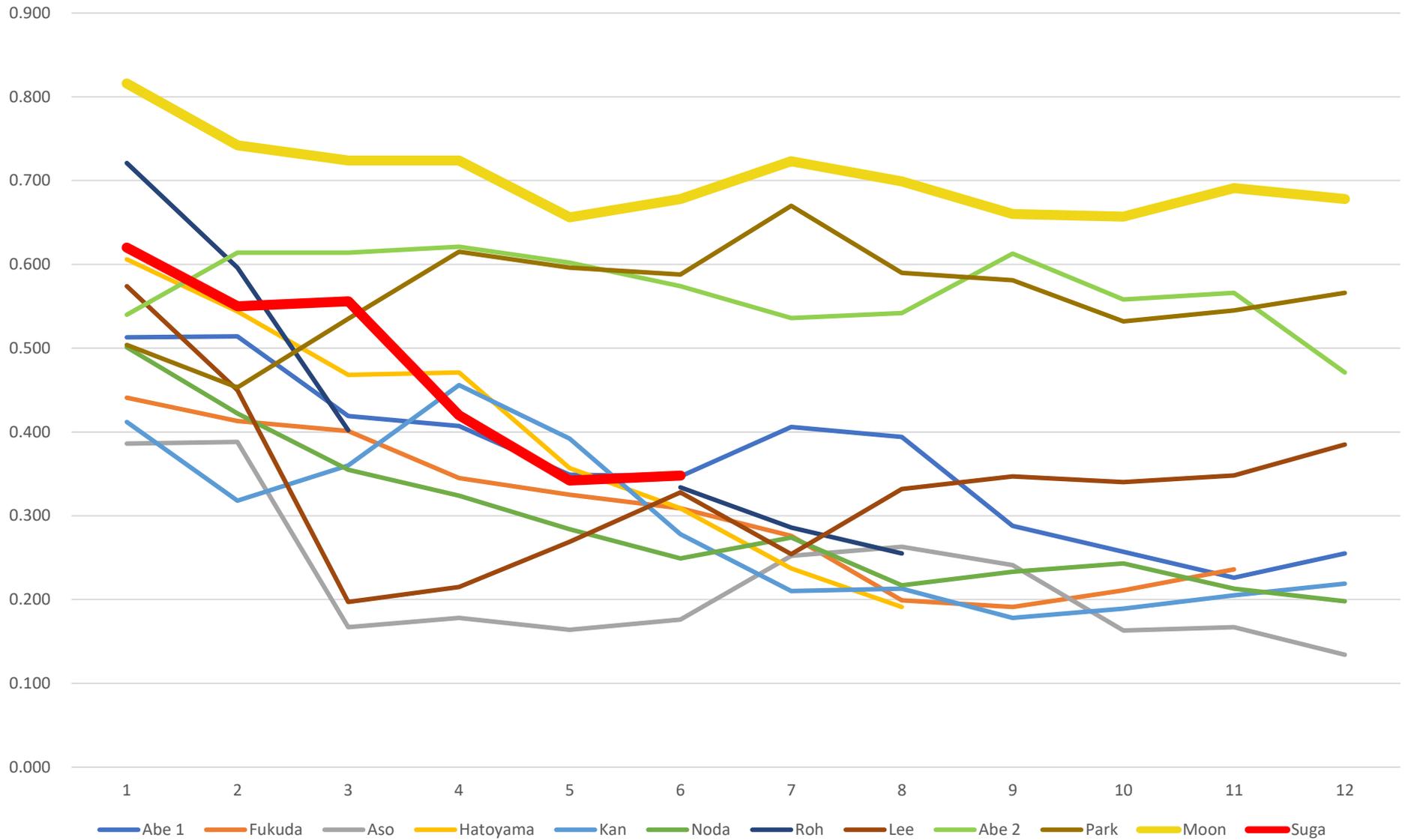
Approval Rating (Until 2012)



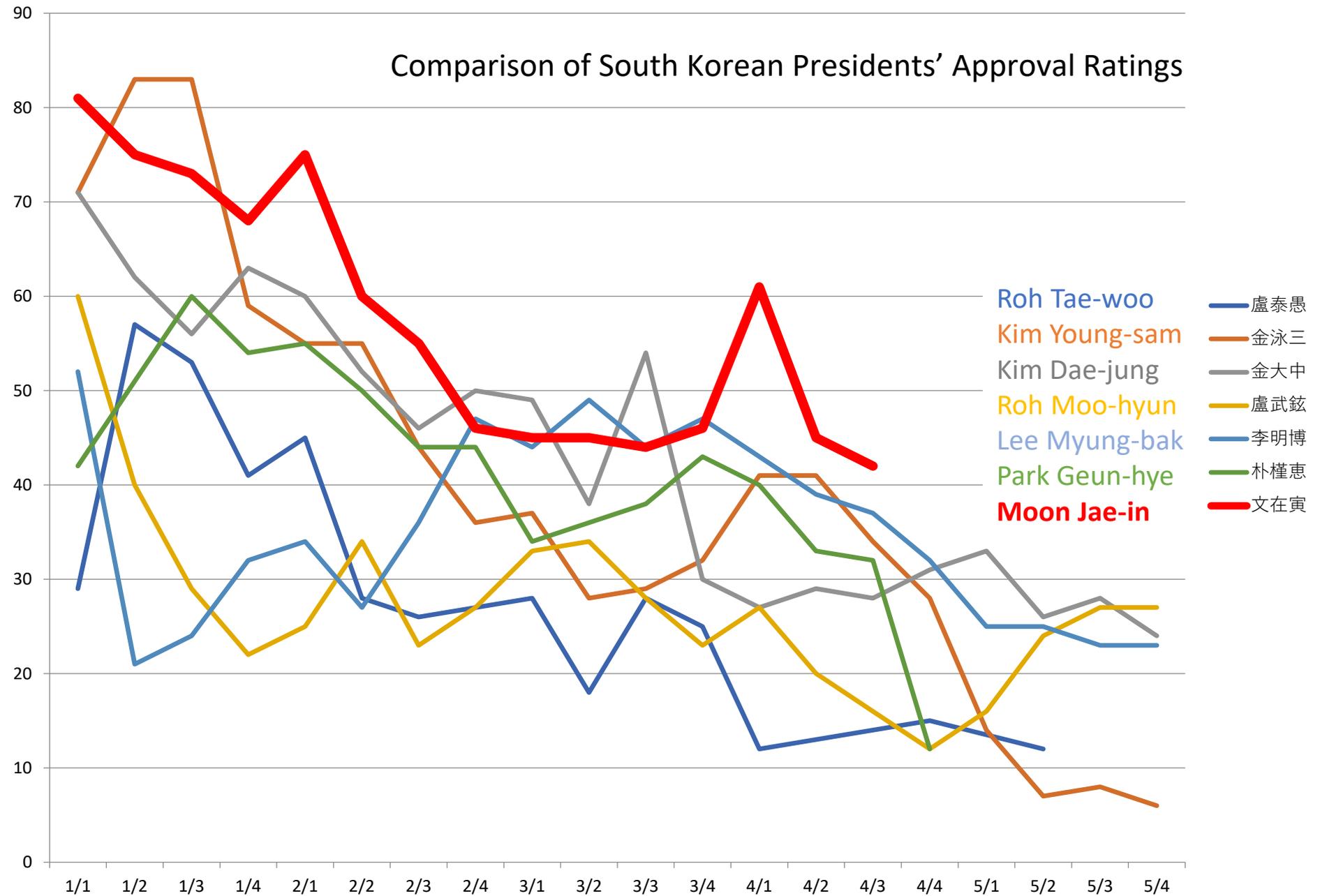
Approval Rating (+ 2nd Abe Admin., Park Geun-hye)



Approval Rating (+ Suga, Moon Jae-in)

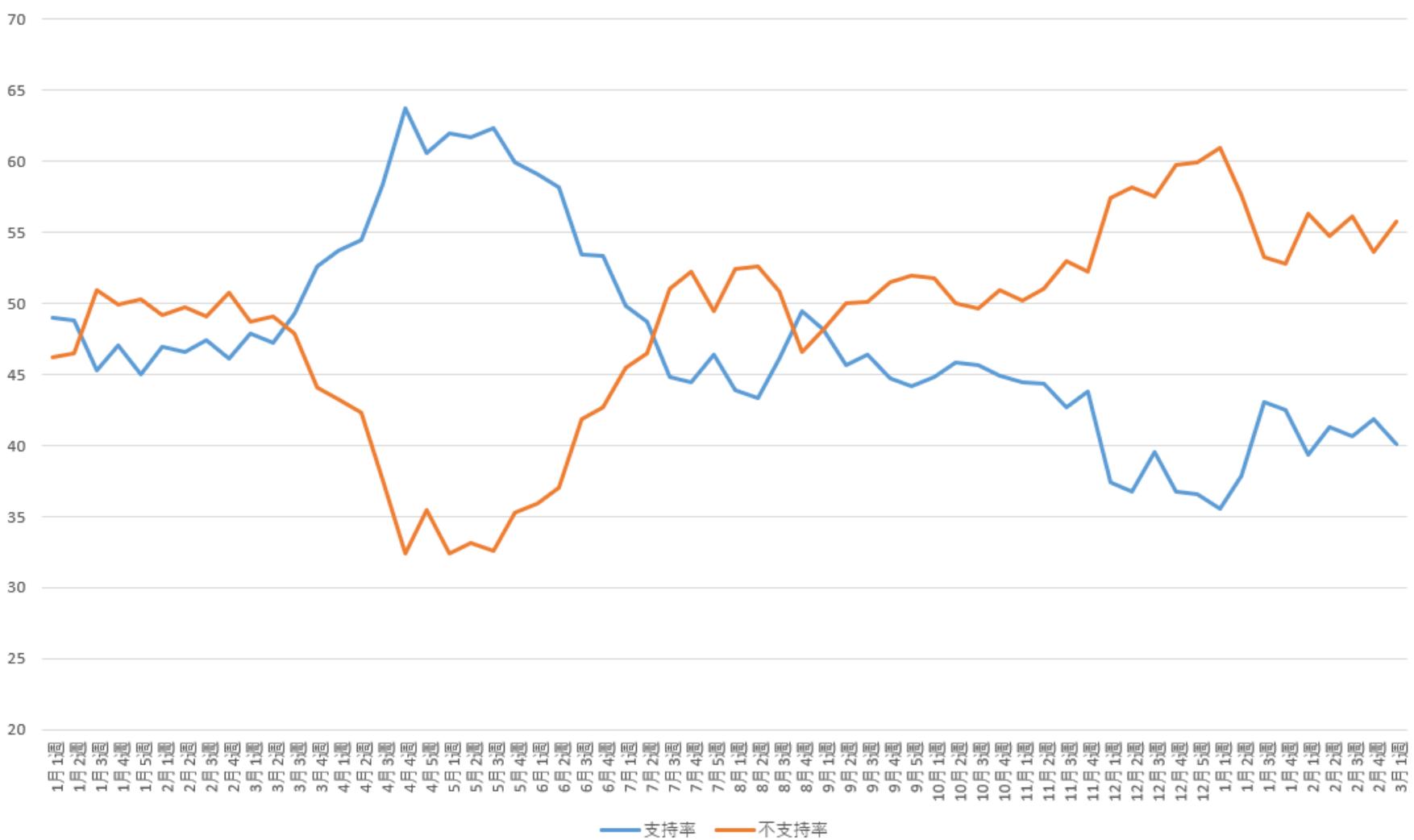


Comparison of South Korean Presidents' Approval Ratings



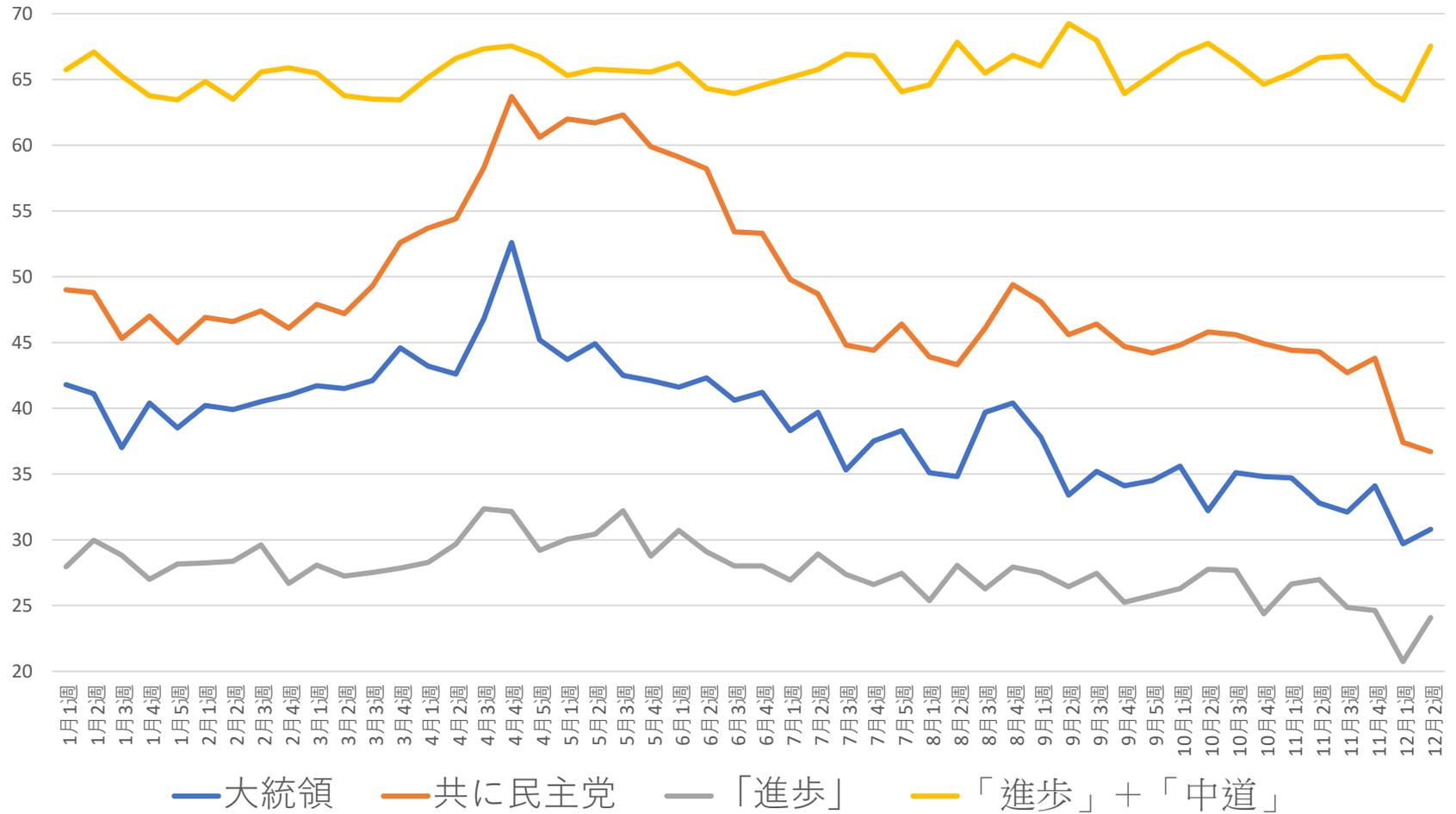
Moon Jae-in Approval Rating (Realmeter, weekly)

文在寅支持率（リアルメーター、週別）



Blue: Approval Red: Disapproval

Moon Jae-in Administration and “Bedrock Supporters”



Blue: President Red: Democratic Party of Korea Grey: Progressive Orange: Progressive + Centrist

What Will Happen with Japan-South Korean Relations?

- Currently, there is almost no domestic incentive for either government to improve relations
- With elections coming up, they are focused on domestic politics
- → High likelihood that nothing will change at this rate
- However, it seems unlikely that implementing bold policies would lower the approval rating and affect the election for either government
- → Therefore, even if there is no incentive to act, that does not mean they cannot act in this situation

Who Will Provide Political Incentive?

- The United States?
 - 1) The Biden administration's policy on the Far East is still unclear
 - 2) Within that policy, improving Japanese-South Korean relations is not a particularly high priority
- (What is the difference compared with the situation in 2015?
→ Please refer to the reference material.)
- 3) It will become more important if **concrete cooperation on security between Japan and South Korea** is necessary to resist China, etc. (In that respect, American strategy and China's actions will be key)
- 4) However, in the current situation Japan and South Korea individually cooperating with the US is sufficient (economic sanctions, etc.)

The U.S.-Japan Alliance in 2020

AN EQUAL ALLIANCE WITH A GLOBAL AGENDA

- **Washington and Tokyo will have to overcome several challenges in building these coalitions. Foremost among these is the continuing tension between Japan and South Korea.** The United States needs its two allies in Northeast Asia to work together constructively and pragmatically on a variety of regional and global issues. They are both critical to addressing challenges, from North Korea to China, as well as setting broader economic, technological, and governance agendas. ***Both sides need to focus on the future, not the past.*** Consolidating Tokyo-Seoul relations strengthens U.S. bilateral ties with each ally. **There are hints of incremental progress, which Prime Minister Suga and President Moon should seize as a critical opportunity for a fresh start.** A near-term opening in this regard involves bilateral cooperation for the upcoming Olympics.

Reaffirming the Unbreakable U.S.-Japan Alliance

Strengthening U.S.-Japan-Republic of Korea Cooperation

- The Biden-Harris Administration is working to strengthen America's relationships with our allies, and the relationships between those allies. *No relationship is more important than that between Japan and the Republic of Korea (ROK).* The United States continues to promote expanded U.S.-Japan-ROK cooperation to tackle COVID-19 and combat climate change, as well as reinvigorate trilateral cooperation on a broad range of global issues, including the denuclearization of North Korea.
- A robust and effective trilateral relationship between and among the United States, the ROK, and Japan is critical for our joint security and interests in defending freedom and democracy, upholding human rights, championing women's empowerment, combating climate change, promoting regional and global peace, security, and the rule of law in the Indo-Pacific and across the globe.

Problems for the US

- Significant decline in American presence/trust (particularly in long-term adherence to policy) under the Trump administration
- For the Moon Jae-in administration, reducing US army presence in South Korea and transferring operational control are not particularly attractive bargaining chips
- → Instead, they would like the US to cooperate on reopening talks with North Korea
- → However, this will be difficult as long as: 1) North Korea's position remains unchanged, and 2) the US-North Korea talks are a legacy of Trump
- In any case, what kind of pressure could they place on Japan:
- → Senkaku Islands? Okinawa?

Trends Within South Korea

- A point of interest is former comfort woman Lee Yong-soo asking to take the case to the International Court of Justice
- → Importantly, public opinion and experts' opinions in South Korea are divided on this issue
- 1) Older researchers: Hesitant
- 2) Younger researchers: Welcoming
- The background for this is
changes to the South Korean side in the international community
- Possible major changes due to nearing the end of a political administration providing an opportunity for “immoral” actions?

「30年間毎週水曜日に（駐韓日本大使館の前で）日本政府に対して謝罪し、賠償せよ」と叫んできた。小学生らも豚の貯金箱を持ってくたりするが、それらを受け取りながら心が痛かった」これをどんな方法であれ新しくしなければならないという気がした。韓国、米国、日本で裁判が開かれたが、事態は何も変わっていない。「日本統治下で14才の子どもだった私が、大韓民国で90才を超えた。しかし、昔無法地帯を作った日本政府は、まだ同じ振る舞いを続けている。長生きした私が何もせずに死ねば、先に亡くなった人たちに言う言葉がない。だからICJに行かなければならないのだ。

ICJの話金を代表らに先に切り出したのは李さんだった。金代表は「彼女が(先月、日本政府の損害賠償責任を認めた国内裁判所の判決後)、日本政府が、慰安婦問題をICJに持って行き日本政府の責任を認めた韓国裁判所の判決を覆す事を考えている、とする記事を読み、ICJについて知りたいと思ったと話した」という。金代表は、李さんと共にシン・ヒソク延世大学法学研究院博士に会って、ICJについて話し合った。「私は最後にICJに訴えたい。どうやればできますか」という李さんの質問から始まり、この日の記者会見にまで至ったと、金代表は伝えた。

李さんは正義記憶連帯と尹美香氏をはじめとする民主党議員について、「数々の問題が持ち上がった。私は無関係だから無視するだけだ」と述べた。このほど発表した革新的な案についても、「(彼らは)話だけを聞いていて、詳細には目を通さなかった」という。女性家族部が被害者支援事業から正義連を排除し、韓国女性人権振興院が直接担当するようになった事を「幸いだ」と表現した。

「直接的な被害者は私たちだが、間接的な被害者は国民すべてだ。他の人ではなく文大統領に解決してほしい。以前、文大統領と大統領夫人が私の手をしっかり握ってくれた事があった。いつもありがたく思っている。早速直接会って申し上げたい。今日にでも、明日にでも。」

국제사법재판소 회부를 둘러싼 우려

국제법 전문가들은 이런 접근에 우려와 의문을 제기했다. 피해자들이 청구권 협정에도 개인 배상청구권이 남아있다는 입장을 전제로 일본의 법적 책임과 배상을 요구해왔는데, 추진위의 예측대로 판결이 나온다면 국제사법재판소의 판단을 받는 것보다 ‘잃는 것’이 클 수 있다는 것이다.

김창록 경북대 교수(법학)는 지난 16일 국제사법재판소를 통해 ‘위안부’ 제도가 당시 국제법을 위반한 범죄라는 사실을 확인 받는 대신 피해자들의 개인 배상청구권은 청구권 협정으로 포기되고 일본의 주권면제가 존중돼야 한다는 판단을 허용하는 “폐해는 실로 심각할 것”이라고 우려했다. 복수의 법률전문가들도 이런 판단이 나온다면 2018년 대법원 판결과 지난 1월 서울중앙지법 판결의 의미를 왜곡할 수 있다고 경고했다. 두 판결이 청구권 협정 및 국가면제 불인정에 따른 국제법 위반이라는 일본 정부의 주장에 힘을 실는 격이어서 그간 국내외에서 이뤄온 노력을 무위로 돌려버릴 수도 있다는 것이다. 또 일본 정부의 능동적인 책임 인정과 사죄라는 피해자 할머니들의 본질적 요구는, 이 문제를 국제사법재판소로 옮긴다고 해결되지 않는다는 지적도 나온다.

‘위안부’ 피해자들에 대한 역사적 사실은 이미 유엔을 비롯한 국제사회의 상식으로 자리 잡은 데다 일본도 제한적으로 인정한 터여서 국제사법재판소를 통해 사실 관계를 인정받아야 할 단계가 아니라는 점도 국제사법재판소를 고집할 필요가 없다는 이유로 거론된다. 앞서 ‘위안부’ 피해자 문제는 △1994년 유엔 국제법률가위원회의 ‘위안부-끝나지 않은 시련’ 보고서(일본의 도의적, 법적 책임 인정) △1996년 유엔 인권위의 ‘전시의 군사적 성노예 문제에 관한 북한과 남한, 일본 파견 조사 보고서’(일본군 위안부를 “군사적 성노예”라고 단정하고 일본의 법적 책임 인정) △1998년 유엔 인권소위원회의 ‘2차대전 중 설치된 위안소에 관한 일본 정부의 법적 책임 분석’ 보고서(맥두걸 보고서·일본 정부의 개인배상 및 “강간소” 설치·감독 책임자 소추 제기)에서만 아니라 유엔 여성차별철폐위원회(1994년, 2003년, 2004년, 2009년·일본 정부의 책임 인정과 배상 등을 촉구)와 유엔 고문방지위원회(2007년), 시민적 정치적 권리위원회(2008년) 등을 통해서도 확인된 바 있다.

정부 관계자 및 다수 국제법 전문가들이 한-일 간 분쟁의 국제사법재판소 회부에 회의적인 또 다른 이유는 독도 문제 때문이다. 일본은 1950년대부터 독도 문제의 국제사법재판소 회부를 주장해와 한국 정부가 ‘위안부’ 등 과거사 문제를 제기하고자 한다면 일본은 독도 문제를 같이 가져가자고 주장할 가능성이 높다. 그간 독도를 둘러싼 영토 분쟁 자체를 인정하지 않은 한국 정부 입장에서는 타격이 클 수밖에 없다. 16일 추진위 기자회견을 우려의 시선으로 본 이들의 밑바닥에는 피해자 할머니들의 이익에 부합하는 결과 도출을 위한 충분한 검토와 전략적 판단이 선행되지 못했다는 아쉬움이 깔려 있는 것으로 보인다.