

Research on the Establishment of China's Personal Bankruptcy Legal System: From the Perspective of Japan's Personal Bankruptcy System

Jiawei Zhang^{1,*}

¹ Faculty of Law, University of Macau, Macao 999078, China

*Corresponding author e-mail: jayden0813@163.com

ABSTRACT. *With the increase in personal consumption and investment in China, debt defaults started to appear as a common phenomenon and also a challenge. These factors altogether have led to rising personal excessive debts. Therefore, as the personal debt crisis is getting more and more serious today, the society of China urgently needs a new effective mechanism that can resolve debt disputes between individuals. It is hoped that the personal bankruptcy legal system will become a remedy for over-indebted persons. Japan is the first country in Asia to establish the personal bankruptcy system, which has already established a relatively complete personal bankruptcy exemption system. On the basis of drawing lessons from the German bankruptcy law, Japan has also absorbed the advantages of the American bankruptcy law and improved the Japanese bankruptcy law system. Therefore, it is very beneficial for China to learn from Japan's personal bankruptcy system, because China urgently needs to establish a personal bankruptcy system and absorb the excellent experience of other countries.*

KEYWORDS: *Personal Bankruptcy Legal System, Personal Excessive Debts, Japanese Bankruptcy Law*

1. Introduction

The personal bankruptcy system originated from ancient Rome. Since then, the personal bankruptcy system has experienced long-term practice, gradually matured and perfected. Today, it has become a crucial civil system in many countries, particularly those developed. The role of personal bankruptcy legal system is to balance the relationship between debtors and creditors. Because the biggest difference between personal bankruptcy and legal person bankruptcy is that the individual debtor, as a member of the society, needs to continue to participate in social and economic activities after the bankruptcy procedure is over, and his personality will not be wiped out by the bankruptcy, and the debt will not be also

wiped out naturally. Thus, the personal bankruptcy system is needed to help bankrupt debtors return to their normal economic life.

Furthermore, with the development of China's economy, more individuals are involved in economic activities regardless of the scale. However, with the increase in personal consumption and investment, debt defaults started to appear as a common phenomenon and also a challenge. These factors altogether have led to rising personal excessive debts. At the same time, in some tort compensation and criminal incidental civil cases, since the debtor originally borrowed for the poverty, it will eventually cause the enforced person to have no property for enforcement, and cause difficulty in court enforcement. Therefore, as the personal debt crisis is getting more and more serious today, the society of China urgently needs a new effective mechanism that can resolve debt disputes between individuals. It is hoped that the personal bankruptcy legal system will become a remedy for over-indebted persons.

But for the personal bankruptcy system, the most basic requirement is to maintain a high level of social credit. China's previous personal credit system was not perfect and lacked a good credit evaluation mechanism. However, with the development of China's personal credit information system and property registration system, the initial conditions for implementing personal bankruptcy have been met. For example, due to the strength of China's digital economy, as well as the rapid development of the cloud computing and big data, it is possible to quickly record personal investment, consumption, and savings behaviors, which promotes the establishment and improvement of a personal credit record system and provides basic conditions for the implementation of personal bankruptcy.

In addition, Japan is the first country in Asia to establish the personal bankruptcy system, which has already established a relatively complete personal bankruptcy exemption system, and already has certain legislative experience and judicial practice. On the basis of drawing lessons from the German bankruptcy law, Japan has also absorbed the advantages of the American bankruptcy law and improved the Japanese bankruptcy law system.¹ In these two legal transplants, Japan has successively absorbed the advantages of the German personal bankruptcy system and the American personal bankruptcy system. Therefore, it is very beneficial for China to learn from Japan's personal bankruptcy system, because China urgently needs to establish a personal bankruptcy system and absorb the excellent experience of other countries. So this article hopes to analyze the relevant content of the Japanese personal bankruptcy legal system, explore the feasibility of China's establishment of a personal bankruptcy legal system, and put forward some personal suggestions for China's establishment of a personal bankruptcy legal system.

¹ See Yoshiaki Sanada, "Legal Inheritance and the change of Legal culture in Japan", translated by Hua Xia, Zhao Lixin, China University of Politic Science and Law Press 2005, p. 36.

2. Why China has not Established a Personal Bankruptcy System So Far?

The personal bankruptcy law is an important part of the bankruptcy legal system in most countries around the world. In 2007, China was working to pass a bankruptcy code, stipulating the corporate bankruptcy system and the personal bankruptcy system. Supporters believe that the personal bankruptcy system can protect debt performance and maintain a good economic order. Under this system, if the debtor is in serious financial distress, a part of his debts can be exempted through personal bankruptcy procedures according to law, so that he can regain a new life. However, a considerable number of opponents believe that there are many factors that make it difficult to establish personal bankruptcy laws. The first is that China did not have a sound personal credit system at that time. Many parties involved in economic activities were unable to fully ascertain the situation of the other party due to various reasons.² If the personal bankruptcy system is rashly introduced when the personal credit system is not yet standardized, then the personal bankruptcy system may become a tool for debtors to evade debts. In addition, the imperfection of the property registration system, especially the imperfection of the trust property hierarchical system, will cause part of the property to be transferred in a hidden way, thus influencing the implementation of the personal bankruptcy system. The second factor is the psychological aspect unique to Chinese tradition. Since ancient times, the stereotype of a debt paid in full has been in the minds of Chinese people.³ Therefore, the concepts of debt exemption and the “rebirth” of debtors after bankruptcy advocated by the personal bankruptcy system had no foundation in China at that time. In addition, since the self-help remedy of the debt relationship still exists, when the creditor cannot judge whether the debtor is in a malicious debt, in order to protect his own interests, he will produce an idea that personal bankruptcy system which will become a protective umbrella for the debtor to avoid the debt.

3. Analysis on the Necessity and Feasibility of Establishing Personal Bankruptcy System in China

3.1 Why China Urgently Needs to Establish a Personal Bankruptcy System

Since China's personal bankruptcy system has not yet been established, creditors can only seek public relief to enforce debts when they are unable to fully obtain their claims. However, the problem of "difficulty in enforcement" in reality has become a major obstacle to creditors' rights protection. Zhou Qiang, President of the Supreme Court of China, mentioned in the Report of the Supreme People's Court on the People's Courts' Work involving “Enforcement Difficulties” that about 43% of

² See Zhang Yang, “How to establish a personal bankruptcy system: history, elaboration and future prospects”, *Taxation and Economy* 2019, p. 1.

³ See Du Yang, *On the Construction of Personal Bankruptcy System in China*, Guangdong University of Foreign Studies, Master Thesis, p. 7.

enforcement cases are not enforceable, and the objects of enforcement in these cases are all individuals.⁴ In addition, during the progresses of the execution procedure, if the civil judgment cannot enable the creditor to obtain its own claims, it may trigger self-help remedy. In daily life, various types of private loans are unavoidable. The vast majority of creditors can protect their rights and interests through legal procedures such as prosecution, but there are also situations where creditors violently demand debts from debtors. The case of Yu Huan is a typical example.⁵ If debt pressure can be relieved through a personal bankruptcy system, this tragedy may be avoided. The lack of a personal debt liquidation system is the reason that some debtors are overwhelmed and go to extremes, which is not conducive to the protection of human rights and social stability.

3.2 The Feasibility of Establishing a Personal Bankruptcy System in China

3.2.1 Continuous Development of Personal Credit Registration System and Property Registration System

With the establishment of the Credit Information Bureau of the People's Bank of China, China's personal credit rating system has gradually grown and become the world's major credit information database. Furthermore, Baixing Credit Information Co., Ltd., established in 2018, has become a booster to promote the development of the personal credit rating system. Baixing Credit Co., Ltd. is a credit registration company jointly established by the China Internet Finance Association and a number of credit institutions, including Alipay Sesame Credit and Tencent Credit Systems, which are well known and frequently used by the public in China, and are supervised by the People's Bank of China. The emergence and improvement of these two systems have made credit ratings gradually become another "identity card" for people who participate in economic activities. Without good personal credit, citizens will struggle in any aspect of modern life. At the same time, China promulgated the "Interim Regulations on Real Estate Registration," and the establishment of a real estate registration system has made it possible to share real estate registration information nationwide in real time. And the Supreme People's Court has cooperated with the Ministry of Public Security to establish a nationwide property enforcement inspection and control system, and realize the networking of more than 3,000 banks and financial institutions across the country, which facilitates the rapid investigation and control of property. The national network enforcement inspection and control system within the court system and the enforcement management system developed by the provincial courts have also been put into use for many years, helping to supervise bankrupts in all aspects. In short, the successive establishment and

⁴ See Report of the Supreme People's Court on the People's Courts' Work, available at: <http://www.sdcourt.gov.cn/nwglpt/2349373/2525901/2985338/index.html>, visited on August. 16, 2020.

⁵ This case occurred on April 14, 2016. After his mother Su Yinxia and herself were insulted by 11 creditors for an hour, Yu Huan stabbed 4 people with a fruit knife in a hurry. The stabbed Du Zhihao drove to the hospital by himself, but died of shock due to excessive blood loss.

improvement of the above systems have made personal assets and transaction information clear and verifiable. When facing individual bankrupts, not only can we make clearer statistics on the bankrupt's property, but also can combat and regulate the bankrupt's desire to conceal property and pre-dispose, making the implementation of personal bankruptcy more feasible.⁶

3.2.2 China's Judicial Practice Foundation and the Exploration of Local Legislation

The Intermediate People's Court of Taizhou City, Zhejiang Province issued the "Regulations for the Transfer of Execution Procedures to Personal Debt Liquidation Procedures (Interim)" on May 8, 2019, establishing a personal debt liquidation mechanism for the first time in China, which is a special procedure in the execution procedure. In August 2019, the Wenzhou Intermediate People's Court also issued the "Implementation Opinions on the Centralized Liquidation of Personal Debts (Interim)." However, although these regulations have the substantive function of personal bankruptcy, they still refer to China's "Corporate Bankruptcy Law." The debtor needs to negotiate with the creditor, which is essentially an agreement. The basis of this exemption lies in the autonomy of the parties' will rather than the mandatory provisions of the law. They can only refer to the Corporate Bankruptcy Law and the agreement between the creditor and the debtor, because China has not established a personal bankruptcy and bankruptcy exemption system. Therefore, it is very necessary to establish the personal bankruptcy system, especially the personal bankruptcy exemption system.

At present, some cities in China have also initiated legislation on the personal bankruptcy system. In 2018, the Shenzhen Intermediate People's Court successfully completed the investigation of the personal bankruptcy system. While submitting the relevant investigation report to the Standing Committee of the Shenzhen Municipal People's Congress, it also submitted the "Shenzhen Special Economic Zone Personal Bankruptcy Regulations (Recommended Draft)." In August 2020, the Standing Committee of the Shenzhen Municipal People's Congress formally passed the "Shenzhen Special Economic Zone Personal Bankruptcy Regulations", which is an active exploration of the personal bankruptcy system by local legislation.⁷ The above attempts on personal bankruptcy legislation reflect the need for the personal bankruptcy system in China's judicial practice, and this need does not only exist in Shenzhen and some local courts, we need a national law. Moreover, the personal bankruptcy system should be uniformly formulated throughout the country, with uniform applicable standards and procedures. Instead of allowing local legislation to

⁶ See Wen Xiufeng, Research on Bankruptcy Law System of Individuals, China University of Political science and Law, Phd Thesis, p. 21-22.

⁷ See Website of the Standing Committee of Shenzhen Municipal People's Congress, available at: http://www.szrd.gov.cn/szrd_zyfb/szrd_zyfb_cwhgb/202009/t20200901_19315925.htm, visited on August. 29, 2020.

meet the needs of judicial practice, it is better to issue a personal bankruptcy law as soon as possible and let the national legislature make a unified plan.

4. Lessons from Japanese Personal Bankruptcy System

4.1 A Brief Introduction to Japan's Personal Bankruptcy System

4.1.1 The Historical Development of Japan's Personal Bankruptcy System

In 1890, Japan introduced a bankruptcy law with reference to French commercial law. In the early days of establishment, the bankruptcy subject was defined as a business natural person or a legal person. In 1922, under the influence of German law, Japan amended its bankruptcy law. The revised bankruptcy law stipulates that regardless of whether the debtor is a businessman or not, he has the capacity to go bankrupt. In 1952, Japan absorbed the essence of American law and introduced the bankruptcy immunity system into the bankruptcy law. However, with the decline of the Japanese economy after the 1990s, many flaws in the Japanese bankruptcy law were gradually exposed, and it was unable to perfectly deal with the problems in judicial practice. It led to the closure of a large number of small and medium-sized enterprises, and even the suicide of debtors, which became serious social problems. Due to these circumstances, starting in 1999, Japan began to amend its bankruptcy legal system. Before the 1999 revision of the Japanese Bankruptcy Law, the Japanese bankruptcy legal system consisted of five laws, namely the Bankruptcy Law, the Reconciliation Law, the Special Liquidation Law, the Corporate Rehabilitation Law, and the Corporate Reorganization Law. The requirements for personal bankruptcy procedures are specified jointly by the Bankruptcy Law and the Reconciliation Law.⁸ In the early 1990s, Japan promulgated the Civil Rebirth Law to replace the function of the Reconciliation Law. In 2000, Japan further revised the Civil Rebirth Law to supplement the reorganization system for debtors with fixed income. In 2002, the Corporate Rebirth Law was revised. In 2004, the new Bankruptcy Law was passed and formally implemented on January 1, 2005.

4.1.2 Analysis of Individual Bankruptcy Subjects

As for the subject of bankruptcy, the Japanese Bankruptcy Law stipulates that no matter whether the applicant is a businessman or not, he has the right to file for bankruptcy.⁹ After the death of a natural person, its bankruptcy capacity is naturally eliminated. If a natural person dies after applying for bankruptcy, his inherited property will continue to execute the bankruptcy procedure. Moreover, if the natural person has died before entering the bankruptcy proceedings, the law also provides

⁸ See Kazuhiko Yamamoto, "Introduction to Japanese Bankruptcy law", translated by Jin Chun, Law Press China 2016, p. 7-9.

⁹ Japanese Bankruptcy law, Article 18.

that the inherited property can be filed for bankruptcy. It is based on the existence of the protection of the creditor's rights. Since the property belongs to the debtor, it should be fully liquidated when the bankruptcy proceedings have begun or are about to begin.¹⁰

4.1.3 Analysis of Personal Bankruptcy Reasons

With regard to the cause of bankruptcy, the Japanese Bankruptcy Law directly stipulates the provision of "unable to pay the debt" as the cause of the debtor's bankruptcy.¹¹ When the debtor is in a state where the debt for immediate repayment cannot be fully and continuously repaid due to insufficient assets, it is determined that the debtor can apply for bankruptcy. The Japanese bankruptcy law chooses to describe the cause of bankruptcy in general, rather than enumerating specific legal provisions, which helps protect creditors' claims for bankruptcy. On this basis, when the creditor detects that the debtor "stops paying" or "cannot pay", he can apply to the court for bankruptcy.¹² After the court receives the application, the debtor can also refute the creditor's appeal by proving that he is capable of paying and prevent the initiation of the bankruptcy proceedings.

4.1.4 Analysis of Bankrupt's Free Property

The Japanese Bankruptcy Law clearly stipulates that certain types of property cannot enter the debtor's bankrupt consortium for distribution by creditors. The scope of these properties includes newly acquired property, prohibited seizure of property and property abandoned by the bankrupt consortium. Specifically, the newly acquired property is obtained after the bankruptcy procedure begins, and the natural person obtains the property through his own labor or inherits the property. The prohibition of seizure of property refers to exclusive claims that are prohibited from seizure in the civil execution procedure, such as compensation for mental damage caused by defamation. The property abandoned by the bankrupt consortium means that the value of the property after auction is higher than the value of the property itself, and it is not suitable to include in the bankrupt consortium for economic reasons. The above three kinds of free property belong to the debtor, and are used as reserves for the bankrupt's future economic rebirth.

4.1.5 Analysis of the Exemption Procedure after Personal Bankruptcy

The exemption procedure is to ensure that the debtor can obtain the opportunity of economic rebirth. The application for personal bankruptcy procedures for natural

¹⁰See Japan Lawyers Association, Bankruptcy Legal Committee, "Personal Bankruptcy-Regenerative Procedure, Practical Subject", Institute of Financial and Fiscal Affairs 2011, p. 14.

¹¹ Ibid. at Article 15, Paragraph 1.

¹² Ibid. at Article 2, Paragraph 11.

persons already includes the content of the application for exemption procedures, which means that the exemption procedures are regarded as part of the personal bankruptcy procedures. After the above application is filed, the bankruptcy court needs to investigate the matters that can be considered in order to decide whether to make an exemption decision. The commencement of the investigation procedure is determined by the bankruptcy court itself, or it can be handed over to the bankruptcy administrator for investigation, and the debtor has the obligation of investigation assistance. If the debtor improperly performs the obligation, the bankruptcy court may not allow the application for exemption. In addition, the bankruptcy court shall make an exemption decision when there are no 11 reasons for exemption stipulated in Article 252 of the Japanese Bankruptcy Law. Once the exemption decision is made and served to the relevant interested parties, the debtor will not have to pay the remaining debts after the exemption.

4.1.6 Analysis of the Loss of Rights System and the Recovery of Rights System in the Japanese Bankruptcy Law

After the completion of the personal bankruptcy proceedings, various laws in Japan strictly restrict the legal rights of the bankrupt debtor.¹³ For example, the bankrupt may not be the chairman of the company, especially important commercial positions. However, the restrictions are mainly focused on qualifications or occupations that involve the interests of others or the public interest and have certain integrity requirements for the candidate.

The Japanese Bankruptcy Law also provides certain procedures for the restoration of restricted rights. That is, when a statutory reason for the restoration of rights occurs, or the personal “rebirth plan” is approved, or ten years have passed since the beginning of the bankruptcy proceedings, based on the application of the bankrupt debtor, the bankruptcy court should comprehensively consider whether to make a decision to restore restricted rights.

4.2 Reasons for Learning from the Japanese Personal Bankruptcy System

The choice of Japan as a reference for China's personal bankruptcy system is mainly based on legislative and cultural considerations. In terms of legislation, we can also see from the above that Japan has the characteristics of drawing on the strengths of other countries, which is also reflected in the promulgation and improvement of Japanese laws. After the Meiji Restoration, Japan comprehensively learned from the bankruptcy laws of Germany and France. In the middle of the twentieth century, Japan absorbed the advantages of the American bankruptcy law,

¹³ For example, Article 1090 of the Japanese Civil Law stipulates that the bankrupt may not become the executor of the will before the ruling of reinstatement. Article 14 of the Japanese Notary Public Law stipulates that a person who has been declared bankrupt may not serve as a notary before the restoration. Article 6 of the Japanese Lawyers Law stipulates that bankrupts cannot become lawyers before their rights are restored.

which perfected the Japanese bankruptcy law system. In these two legal transplants, Japan has successively absorbed the advantages of the German personal bankruptcy system and the American personal bankruptcy system. Therefore, it is very beneficial for China to learn from Japan's personal bankruptcy system, because China urgently needs to establish a personal bankruptcy system and absorb the excellent experience of other countries. At the same time, Japan did not unreservedly absorb and learn from the US or German personal bankruptcy system, but based on its own reality. For example, the US Federal Bankruptcy Law does not separate the personal bankruptcy system from the debt reorganization system. However, in the Japanese Bankruptcy Law, the personal bankruptcy system and the debt reorganization system are separately regulated. It reflects that the US personal bankruptcy system focuses on the protection of debtors, while the Japanese personal bankruptcy system is more targeted. In terms of culture, China and Japan have frequent cultural exchanges. The Japanese culture that advocates the culture of shame and the spirit of harmony is similar to the traditional Chinese Confucian culture. The Japanese personal bankruptcy system created under this cultural background has a positive effect on the construction of China's personal bankruptcy system.

5. Assumptions on the Construction of China's Personal Bankruptcy System

5.1 Subject and Conditions of Application for Personal Bankruptcy Proceedings

Since the bankruptcy law is a private law, the initiation of bankruptcy proceedings needs to fully respect the autonomy of the parties' will, and is more suitable for initiating bankruptcy upon application, which is also consistent with the provisions of the Chinese Corporate Bankruptcy Law on the subject of initiation. The Chinese Corporate Bankruptcy Law stipulates that both the debtor and the creditor have the right to apply for the initiation of bankruptcy proceedings. Therefore, relevant provisions can be extended to the application for personal bankruptcy proceedings to ensure the consistency of the law. In other words, both the debtor and the creditor are eligible as applicants for personal bankruptcy proceedings. In addition, in China's current corporate bankruptcy law, applicants are required to provide true and effective materials to prove that the debtor is unable to repay the debt. And due to the transfer and concealment of assets by individuals are more concealed than corporate legal persons. Therefore, this article believes that in the personal bankruptcy procedures, the Japanese bankruptcy law on "the debtor stops paying the creditor's rights" provisions can be used in the Chinese Corporate Bankruptcy Law to reduce the difficulty of proof for creditors and protect the interests of creditors.¹⁴

¹⁴ See Ishikawa Akira, "Japanese Bankruptcy Law", translated by He Qinhua, Zhou Guiqiu, China Legal Publishing House 2000, p. 26.

5.2 Personal Bankruptcy Free Property

After being declared bankrupt, if there is no free property system, all of the debtor's property will generally become bankrupt property, and their right to survival will be directly threatened. At the same time, the provision of the debtor's own property system is conducive to prompting the debtor to apply for bankruptcy. If the bankruptcy procedure assigns all of the debtor's assets to fixed assets, the debtor will avoid the application of the bankruptcy procedure, which is very likely to increase the debt burden. It is not only difficult to protect the rights and interests of creditors, but even threatens the social order. Therefore, the provision of own free property will help protect the dual rights of debtors and creditors. China can learn from Japan's regulations on the scope of bankruptcy property, that is, when bankruptcy is declared, property belonging to the bankrupt can be included in the bankrupt consortium. In addition, if the bankruptcy property manager believes that some assets in the statutory bankruptcy consortium are worthless or meaningless and determine to abandon these assets, which can include to the free property of debtor.

5.3 Establishing the Pre-Procedures for Personal Bankruptcy System

Regarding the personal bankruptcy system, the academia is most concerned about whether the personal bankruptcy system will become an umbrella for some people to escape debts. Considering China's traditional thinking of debt must be repaid and the current public panic. This article believes that in the initial stage of the implementation of the personal bankruptcy system, the threshold of the permitted bankruptcy exemption system can be appropriately raised, and after the system is implemented for some time, the threshold of the bankruptcy exemption system can be slowly lowered. In this way, not only can the public's panic be gradually eliminated, but also help to ensure the smooth implementation of the personal bankruptcy system. We can set the conditions for applying for exemption and appropriately raise the standards for exemption from personal bankruptcy. For example, according to the actual situation of the debtor, a certain amount of repayment standard should be set, and an application of personal bankruptcy can be submitted to the court after the repayment amount is reached.

5.4 The Establishment of the Restriction of Rights System and The Restoration of Rights System

The restricted rights system, as a punishment system in the personal bankruptcy system, will achieve the effect of avoiding false bankruptcy by restricting the debtor from holding certain positions or engaging in certain behaviors. However, if the debtor is honest, after a certain period of time, this restriction will be lifted, and the debtor can re-engage in a specific occupation without restrictions. The system of restoring rights will help bankrupt debtors re-enter the economic market with a brand-new identity after reflecting on their own behavior. The establishment of the restriction of rights system and the restoration of rights system will help China

restrict and regulate debtors in the initial stage of the establishment of the personal bankruptcy system, thereby avoiding the emergence of bankruptcy fraud. There are two ways to build a restricted rights system in China. The first is the restriction on social status. For example, after the debtor goes bankrupt, he cannot engage in professional occupation such as lawyers, accountants, and notaries.¹⁵ The second is to restrict part of the bankrupt's economic activities. For example, we can set a prohibition for the debtor to travel abroad and the consumption of bulk luxury goods.

And in terms of the restoration of rights system, Japan adopts a system of natural restoration of rights and clearly stipulates the maximum period of loss of rights as 10 years.¹⁶ However, for China, when the personal bankruptcy system was first established, the method of naturally restoring rights within a prescribed time limit was inevitably radical. Therefore, the article believes that the system of restoring rights should adopt the method of application by the parties, which should be reviewed and approved by the court and publicized to eliminate the impact of restricted rights and facilitate the bankrupt to resume life.

6. Conclusion

With the rapid development of China's economy, more and more individuals are involved in economic activities, and the current situation of personal over-indebtedness is becoming more and more serious. China's existing laws can no longer satisfy the settlement of credit and debt disputes between individuals. So establishing the personal bankruptcy system and relieving the remaining debts of the bankrupt debtor is not only conducive to encouraging the debtor to actively participate in the bankruptcy process and protecting the right of the creditor to be paid fairly, but also to give the debtor the opportunity to start again and return to social life, which can reduce the burden on society and recreate social wealth.

In addition, just as the Chinese saying goes: The jade from other mountains can be used to attack the stone, which means that absorbing the experience of other countries can promote the solution of domestic problems. Japan is the first country in Asia to implement a personal bankruptcy system. It has already established a relatively complete personal bankruptcy exemption system and already has certain legislative and judicial practice experience. So, this article discusses the development process of Japan's personal bankruptcy system and the reasons for learning from this system in Japan, analyzes the relevant characteristics of Japanese personal bankruptcy procedures, and puts forward the conclusion that China should establish a personal bankruptcy system. I hoped that on the basis of absorbing the bankruptcy system of other countries and taking into account the actual situation of

¹⁵ See Hu Ling, "Research on Chinese Personal Bankruptcy Legislation from the Perspective of Debtor's Survival", China Legal Publishing House 2014, p. 117-124.

¹⁶ See Ishikawa Akira, "Japanese Bankruptcy Law", translated by He Qinhu, Zhou Guiqiu, China Legal Publishing House 2000, p. 126.

the society, China will formulate the introduction of a personal bankruptcy system and continue to improve it in practice.

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