Personal Bankruptcy and Rehabilitation in Korea

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1. Introduction

- Two goals of the personal bankruptcy system

1. to protect human rights.
   - If a person falls into insolvency, it means that he should spend his whole life in an impossible situation.
   - Discharge can be seen as a social policy protecting the insolvent person.

2. to utilize social resources more efficiently
   - Without the discharge system, people might not take the risks of running a venture for fear of the worst case
   - It can discourage entrepreneurial activities, which is harmful for economic growth.

1. Introduction

- In this paper, we will

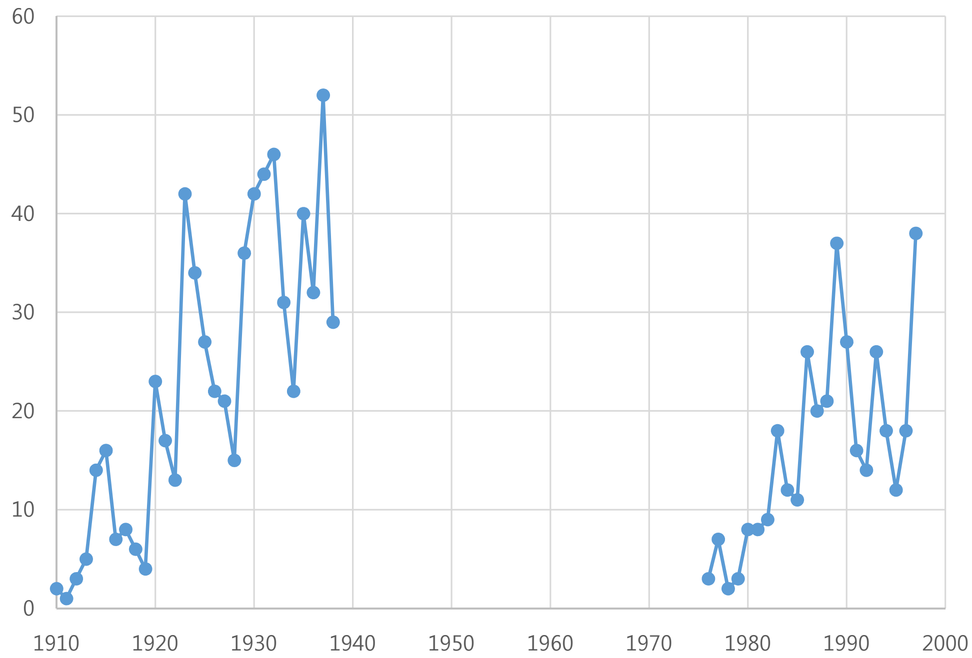
  - examine how bankruptcy and rehabilitation have evolved in Korea
  - explore characteristics of filers
  - make some policy suggestions.

2. Evolution of the Personal Bankruptcy and Rehabilitation Acts

- The modern bankruptcy law was introduced in Korea during the colonial period.

- An important characteristic underlying these two laws is built-in antagonism against the breach of contract.
  - The bankruptcy law didn't allow discharge of the debtor.

Figure 2-1 Personal Bankruptcy, 1910–1997



2. Evolution of the Personal Bankruptcy and Rehabilitation Acts

- Bankruptcy filing was quite low under this tough bankruptcy system
  - Cultural and economic factors also mattered

- New Korean bankruptcy laws were enacted in 1962.
- A crucial difference from the colonial period was the introduction of discharge
- Bankruptcy filing was still quite low

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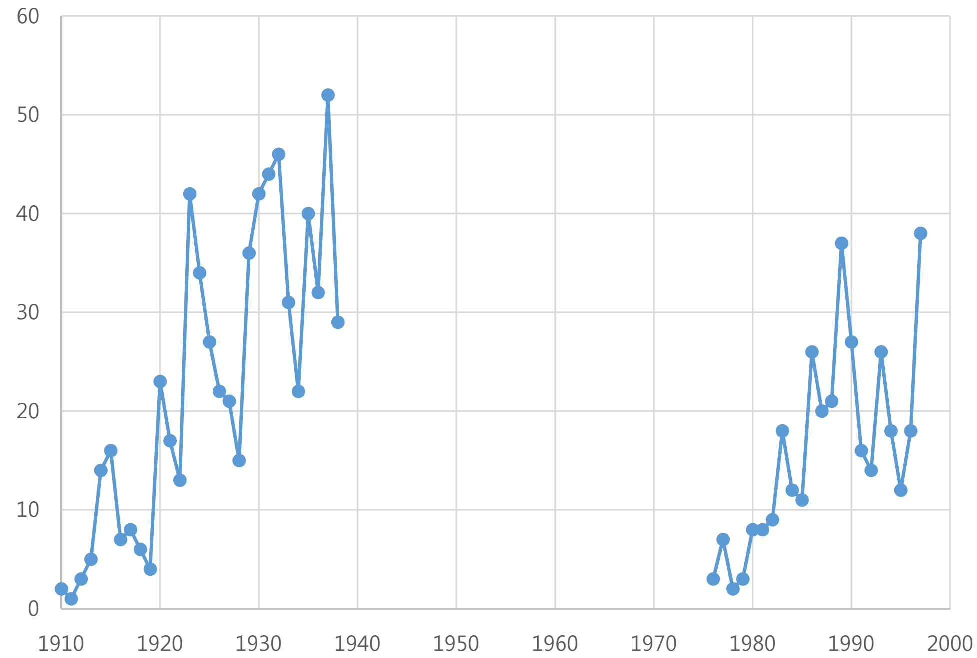
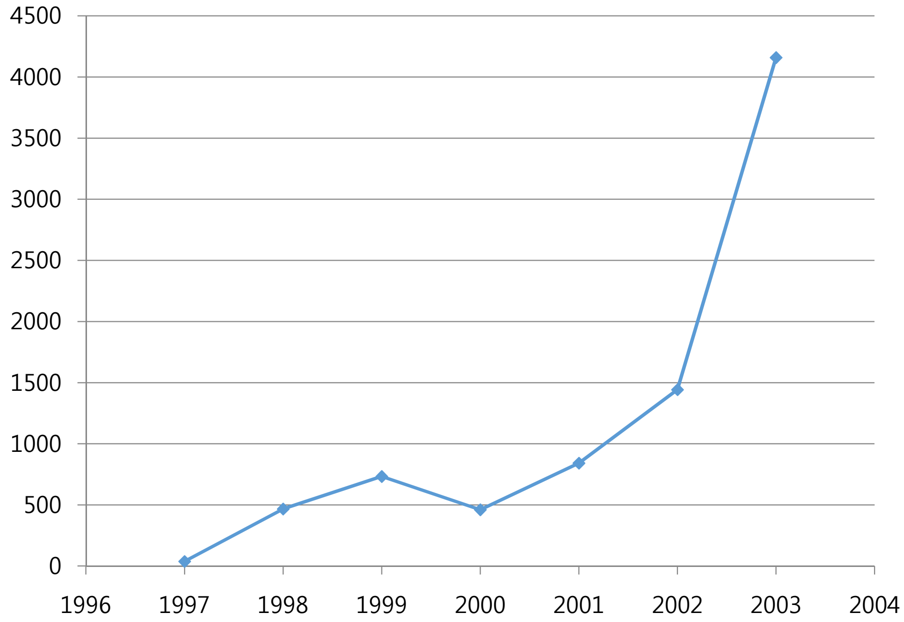


2. Evolution of the Personal Bankruptcy and Rehabilitation Acts

- The number of bankruptcy filings soared at an unprecedented rate in the late 1990s.

  - From the 1980s, formal financial institutions such as banks, expanded loans to individual borrowers
  - the financial crisis of 1997

Figure 2-3 Personal Bankruptcy, 1997–2003



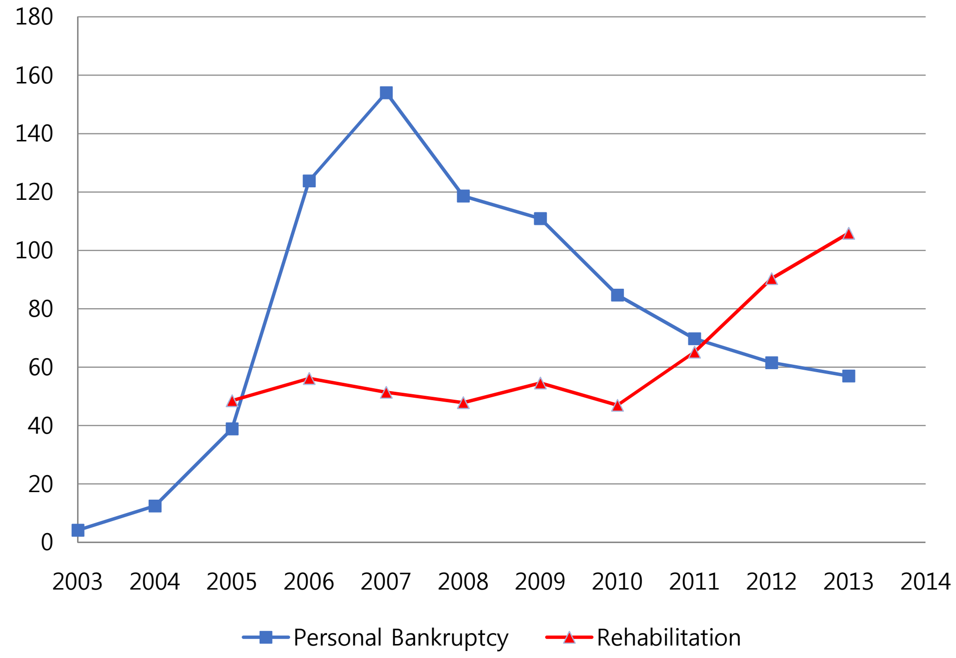
2. Evolution of the Personal Bankruptcy and Rehabilitation Acts

- Bankruptcy reform from 2003 to 2006

- the Debtor Rehabilitation and Bankruptcy Law of 2006

  → the foundation of the current personal bankruptcy and rehabilitation system in Korea

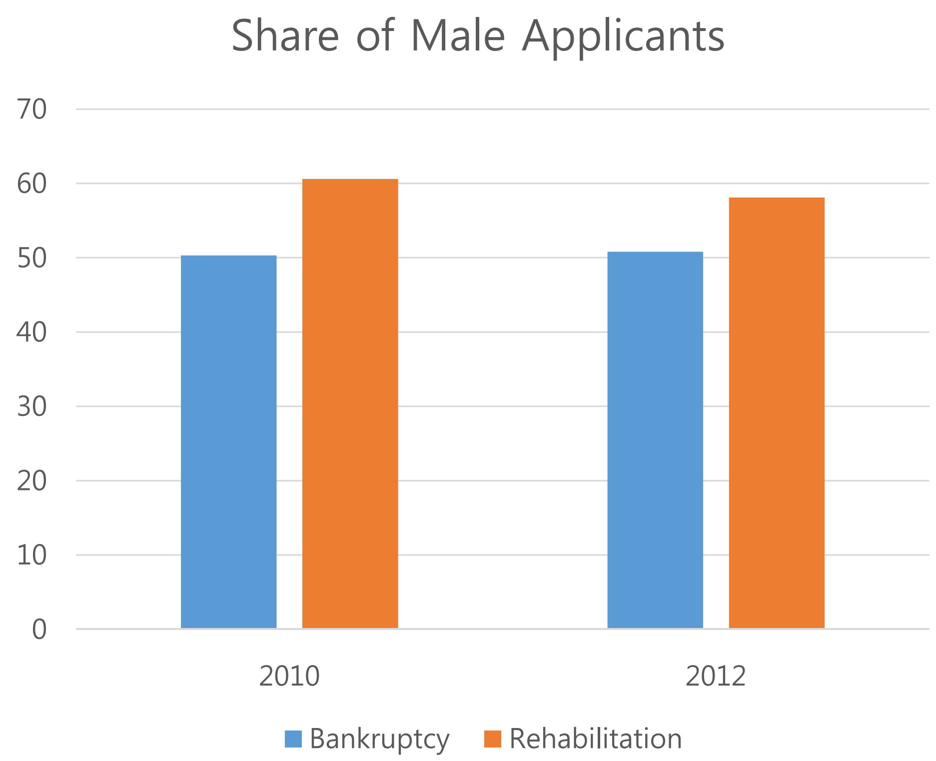
Figure 2-4 Personal Bankruptcy and Rehabilitation, 2003-2013 (Thousands)



3. The Procedure of Personal Bankruptcy and Rehabilitation: The Current System.

4. Characteristics of Applicants and Their Performance

- **Male vs. Female**
- Age
- Marital Status



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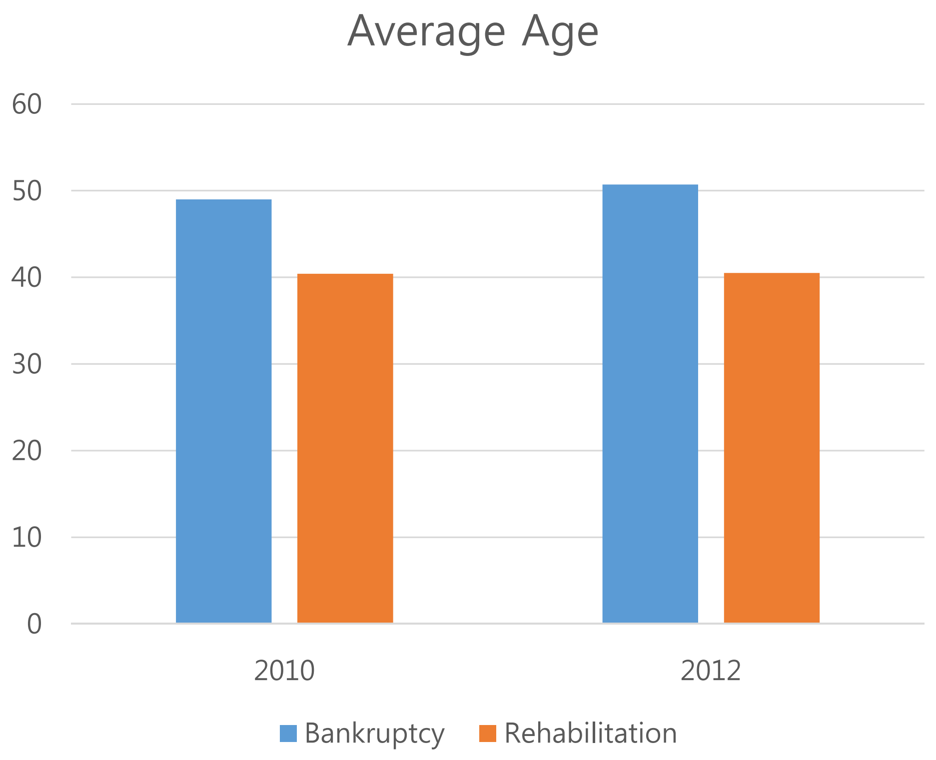

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- Male vs. Female

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- **Marital Status**

Marital Status (2012)

		%
Not married		35.0
Married	Married	47.0
	Divorced	18.0

4. Characteristics of Applicants and Their Performance

Rehabilitation Filers

- **Causes of Insolvency**
- Income, debt, and payment plan
- Discharge Rate

Causes of Insolvency: Rehabilitation Filers
(Multiple answers, %)

	2012
Living Expenditures	89
Medical Expenditures	8
Tuition Fees	3
Food, Alcohol, Gambling, Hobbies, etc.	0
Business	26
Joint Guarantee	3
Stock Trade	1.5
Fraud	6.5
Others	46.5

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Rehabilitation Filers

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Average income and debt of rehabilitation applicants, 2012

	Million won	(Thousand dollar)
Monthly Income	1.5	(1.3)
Liquidation Value	9.0	(7.9)
Debt	70.6	(62.3)
Planned Monthly Payment	0.5	(0.4)
Planned Total Payment	30.0	(26.5)

6. Policy Suggestions

1. **The Court's Antagonism against Breach of Contract**
2. Integration of the Bankruptcy and Rehabilitation Procedures
3. The Level of Allowance
4. The Right of Collateral
5. Success rate of Discharge
6. Variation of Standards across Branch Courts.
7. Education and Consulting Service

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Minimum Expenditure for a Family with 4 members, 2013 (KRW million)

	Million won
Minimum Expenditure	1.5
150%	2.3

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the government should limit the right of secured creditors to housing.

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- The success rate in discharge is 72.3%.
- Those who discontinue the payment plan stop within one to two years.

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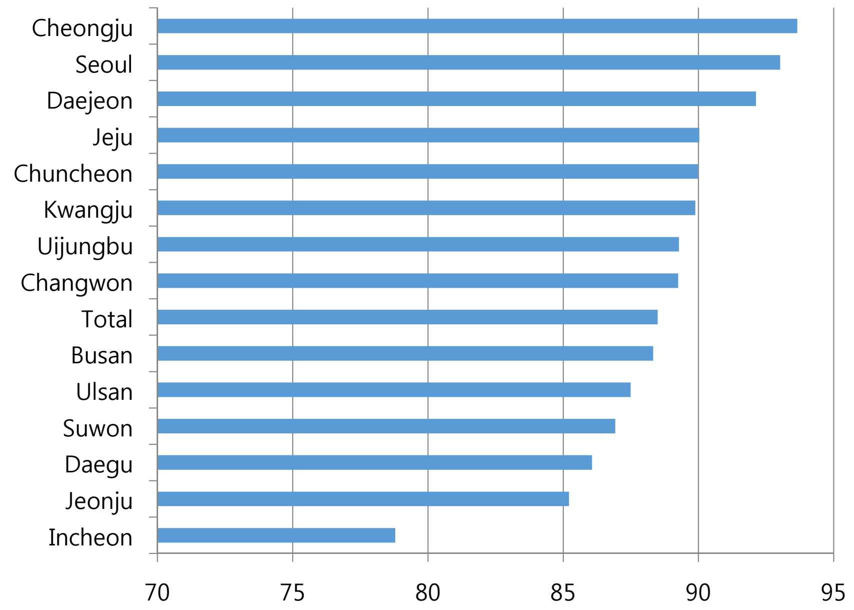
Approval Rate of Payment Plan According to Branch Court, 2014



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7. **Education and Consulting Service**

Korea: the Credit Counseling and Recovery Service

U.S.: Consumer Credit Counseling Service

International Comparison

	Korea	Japan	USA	Germany
Integration of Bankruptcy and Rehabilitation Procedures	Separated	Separated	Separated	Integrated
Shift between the procedures	Not Allowed	Allowed	Allowed	Allowed
Secured Creditor's Right of Collateral	Not Restricted	Restricted	Restricted	Restricted
Requirement for filing Bankruptcy	Insolvency	Insolvency	None	Insolvency +Risk of Insolvency
Automatic Discharge	Not Allowed	Not Allowed	Allowed	Allowed
Maximum Length of Payment (year)	5	10	3,5	3,5,6

7. Conclusion

- The modern bankruptcy law was first introduced in Korea about a hundred years ago.
- However, a genuine bankruptcy and rehabilitation system started to work only about ten to twenty years ago
- Korean courts and related specialists have made a lot of efforts to implement a relevant bankruptcy and rehabilitation system harmonizing economic development and social stability.
- Although these efforts have been successful, further improvements should be made.
- It is also crucial to analyze how the system works. In-depth statistical analysis is crucial for this, and that is impossible without the court releasing data for research.

Thank You.