

Bankruptcy Laws: Part of a Global History

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Abstract

This contribution first presents a brief outline of the economic logic of bankruptcy laws as of their historical development in Europe since the Middle-Ages. This experience is then compared with what an economy without a bankruptcy law would like, and three specific, intermediary examples are then discussed : in Ancient Rome, in pre-Meiji Japan and in the traditional Muslim world patterns of bankruptcy laws were developed, although the fully-fledged institution did not emerge. It is then hypothesised that the strong, direct interaction between core state institutions (a court, a judge) and private agents with valuable assets calls for a specific and rather demanding institutionnal set-up: a strong public authority should be mobilised in support of the collective action of creditors, albeit without invading their assembly and pre-empting assets. This specifically liberal rule emerged only in the medieval, European trading cities and was then interestingly protected by the ulterior, absolutist monarchies. From there on and in the following centuries, it continued its worldwide expansion.