

COMPARATIVE ANALYSIS OF SME PROTECTION MECHANISMS IN BANKRUPTCY LAWS: FROM LEGAL TEXTS TO PRACTICAL CASES IN CHINA AND THAILAND

Pichet Tookjitra ^{1*}, Lei Gao ², Haijun Wang ³, Jun Fang ⁴, Jia Tang ⁵

^{1 2 3 4 5} Innovation College, North-Chiang Mai University

* **Corresponding Author, E-mail:** Pichet @northcm.ac.th

Abstract: Small and medium-sized enterprises (SMEs) are fundamental to the economic landscapes of both China and Thailand, driving job creation, innovation, and overall economic growth. In China, SMEs contribute more than 60% to the country's GDP and account for 80% of urban employment (National Bureau of Statistics of China, 2022). Similarly, in Thailand, SMEs represent over 99% of all enterprises and employ more than 70% of the workforce (Office of Small and Medium Enterprises Promotion [OSMEP], 2021). Despite their significant contributions, SMEs are particularly vulnerable to financial distress and bankruptcy, which can have severe repercussions on national economies. Bankruptcy laws provide a crucial legal framework that facilitates the orderly exit of failing businesses and offers mechanisms for the reorganization and survival of distressed firms. However, the effectiveness of these laws in protecting SMEs varies considerably across different legal systems. China and Thailand, with their distinct legal traditions and economic contexts, offer a unique comparative perspective on this issue. China's legal system is heavily influenced by the civil law tradition, particularly Germanic-Roman law, whereas Thailand's system is a hybrid of civil and common law influences (Chen, 2010; Harding, 2001). These differences significantly impact the design and implementation of bankruptcy laws, affecting how SMEs are protected during insolvency procedures. This research aims to compare the legal provisions for SME protection in the bankruptcy laws of China and Thailand, analyze the practical implementation and effectiveness of these laws through case studies, and provide insights and recommendations for policymakers and legal practitioners to enhance SME protection in both countries. The study contributes to the academic literature on bankruptcy law and SME protection by offering a comparative analysis of the legal systems in China and Thailand. The findings have practical implications for improving legal frameworks and practices, providing valuable insights for policymakers, legal practitioners, and business owners. Enhancing SME protection during bankruptcy can promote economic stability and resilience, fostering sustainable economic development.

Keywords: SMEs, Bankruptcy Laws, China, Thailand, Comparative Analysis, Legal Frameworks,

Economic Stability, Reorganization, Financial Distress

Introduction

Small and medium-sized enterprises (SMEs) are fundamental to the economic landscapes of both China and Thailand, driving job creation, innovation, and overall economic growth. In China, SMEs contribute more than 60% to the country's GDP and account for 80% of urban employment (National Bureau of Statistics of China, 2022). Similarly, in Thailand, SMEs represent over 99% of all enterprises and employ more than 70% of the workforce (Office of Small and Medium Enterprises Promotion [OSMEP], 2021). Despite their significant contributions, SMEs are particularly vulnerable to financial distress and bankruptcy, which can have severe repercussions on national economies.

Bankruptcy laws provide a crucial legal framework that facilitates the orderly exit of failing businesses and offers mechanisms for the reorganization and survival of distressed firms. However, the effectiveness of these laws in protecting SMEs varies considerably across different legal systems. China and Thailand, with their distinct legal traditions and economic contexts, offer a unique comparative perspective on this issue. China's legal system is heavily influenced by the civil law tradition, particularly Germanic-Roman law, whereas Thailand's system is a hybrid of civil and common law influences (Chen, 2010; Harding, 2001). These differences significantly impact the design and implementation of bankruptcy laws, affecting how SMEs are protected during insolvency procedures.

Research Objective (s)

This study aims to:

1. Compare the legal provisions for SME protection in the bankruptcy laws of China and Thailand.
2. Analyze the practical implementation and effectiveness of these laws through case studies.
3. Provide insights and recommendations for policymakers and legal practitioners to enhance SME protection in both countries.

Significance of the Study

This research contributes to the academic literature on bankruptcy law and SME protection by offering a comparative analysis of the legal systems in China and Thailand. The findings have practical implications for improving legal frameworks and practices, providing valuable insights for policymakers, legal practitioners, and business owners. Enhancing SME protection during bankruptcy can promote economic stability and resilience, fostering sustainable economic development.

Research Questions

This study seeks to answer the following research questions:

1. What are the key legal provisions for SME protection in the bankruptcy laws of China and Thailand?
2. How are these laws implemented in practice, and what challenges exist?
3. What are the strengths and weaknesses of each system in terms of SME protection?
4. How can the legal frameworks be improved to better protect SMEs during bankruptcy?

Literature Review

Historical Development of Bankruptcy Laws

China: The evolution of China's bankruptcy law is closely tied to the country's economic reforms and transition from a centrally planned economy to a market-oriented system. The Enterprise Bankruptcy Law, enacted in 2006, marked a significant milestone in providing a unified legal framework for insolvency issues. This law introduced provisions for both reorganization and liquidation, aiming to balance the interests of creditors and debtors while improving the efficiency of the bankruptcy process (Wang, 2020). Over the years, the law has been amended to address the complexities of modern economic activities and enhance protections for SMEs (Zhang, 2015).

Thailand: Thailand's bankruptcy law dates back to the Bankruptcy Act B.E. 2483 (1940), one of the oldest in Southeast Asia. The Act has undergone numerous amendments to adapt to the changing economic landscape and improve the effectiveness of bankruptcy procedures. Notable reforms in recent years have focused on enhancing the protection of SMEs and streamlining the reorganization process to support business continuity and economic stability (Chotithamaporn, 2019). Thailand's legal system, a hybrid of civil and common law traditions, has facilitated a more flexible and adaptive bankruptcy framework (Harding, 2001).

Key Legal Principles and Provisions

China: China's bankruptcy law is rooted in civil law traditions, heavily influenced by the Germanic-Roman legal system. The Enterprise Bankruptcy Law emphasizes fairness in creditor treatment, protection of debtor rights, and promotion of economic efficiency through reorganization and liquidation processes (Chen, 2010). Specific provisions designed to protect SMEs include simplified procedures for small business bankruptcies and mechanisms to facilitate debt restructuring and reorganization (Enterprise Bankruptcy Law of the People's Republic of China, 2006). These measures aim to reduce administrative burdens and expedite the bankruptcy process, allowing SMEs to recover and continue operations more efficiently (Wang, 2020).

Thailand: Thailand's bankruptcy law incorporates principles from both civil and common law traditions, focusing on fairness, creditor protection, and economic efficiency (Harding, 2001). The Bankruptcy Act B.E. 2483 (1940) provides a comprehensive legal framework for liquidation and reorganization. Recent amendments have enhanced SME protections and streamlined bankruptcy

procedures (Chotithamaporn, 2019). Key provisions include special procedures for SME bankruptcies, mechanisms for debt restructuring, and protections against unfair treatment of small business owners (Bankruptcy Act B.E. 2483, 1940). These measures ensure a balanced approach that safeguards the interests of creditors and debtors while promoting economic stability (Liew, 2018).

Comparative Studies and Analysis

Several comparative studies have examined the differences and similarities in bankruptcy laws between China and other jurisdictions, shedding light on unique challenges and opportunities within each legal system. Ho (2020) compares the bankruptcy frameworks of China and the United States, emphasizing distinct approaches to debtor protection and creditor rights. The study reveals that while the U.S. system offers more robust protections for debtors, China's system is more creditor-friendly, reflecting different legal and cultural contexts.

Similarly, Liew (2018) provides a comparative analysis of bankruptcy laws in China and Japan, focusing on procedural efficiencies and protection mechanisms for SMEs. The study finds that Japan's bankruptcy law is more streamlined and effective in terms of SME protection, largely due to its well-established legal infrastructure and experienced judiciary. In contrast, China's system, though comprehensive, faces challenges related to inconsistent application and regional disparities (Liew, 2018).

Comparative studies between China and Thailand are relatively sparse. However, existing research suggests both countries face similar challenges in protecting SMEs during bankruptcy. Xu and Wu (2022) highlight the importance of effective reorganization mechanisms and the need for legal reforms to enhance SME protection in both jurisdictions. Their study underscores the role of cultural and institutional factors in shaping legal frameworks and suggests that a comparative approach can offer valuable insights for policymakers and legal practitioners.

Gaps in the Literature

Despite the extensive literature on bankruptcy laws and SME protection, notable gaps warrant further research. Specifically, there is limited comparative analysis focusing on the protection mechanisms for SMEs in China and Thailand. Existing studies often concentrate on broader comparisons or specific aspects of bankruptcy law, leaving a gap in understanding how these mechanisms function in practice and their effectiveness in protecting SMEs (Davydenko & Franks, 2008; Fisher & Martel, 2004).

Another gap is the lack of empirical studies examining the real-world experiences of SMEs undergoing bankruptcy proceedings in these countries. Such studies could provide valuable insights into the practical challenges faced by SMEs and the effectiveness of existing legal protections (Morrison, 2007). Additionally, research exploring the socio-economic impacts of bankruptcy laws on SMEs, particularly regarding job retention and economic stability, would be beneficial (Fan & White,

2003).

Methodology

This study employs a comparative legal analysis and qualitative case study approach to investigate the protection mechanisms for SMEs in the bankruptcy laws of China and Thailand. Comparative legal analysis allows for a detailed examination of the similarities and differences between the two legal systems, providing insights into their respective strengths and weaknesses (Kamba, 1974). The qualitative case study approach is used to analyze selected cases, offering a deeper understanding of how bankruptcy laws are applied in practice (Yin, 2014). To ensure comprehensive and accurate information on the bankruptcy laws and SME protection mechanisms in China and Thailand, the research draws on both primary and secondary data sources. Primary sources include legal texts and statutes such as the Enterprise Bankruptcy Law of the People's Republic of China (2006) and the Bankruptcy Act B.E. 2483 (1940) of Thailand and its subsequent amendments. Relevant judicial decisions and case reports from Chinese and Thai courts illustrate the application of bankruptcy laws to SMEs. Additionally, government and regulatory documents such as reports and publications from the National Bureau of Statistics of China and the Office of Small and Medium Enterprises Promotion (OSMEP) in Thailand are utilized. Secondary data sources encompass a wide range of academic journals and articles, including scholarly articles and comparative studies on bankruptcy law and SME protection (Ho, 2020; Liew, 2018; Wang, 2020), legal commentaries and analyses published in reputable law journals (Chen, 2010; Chotithamaporn, 2019), comprehensive texts on Chinese and Thai legal systems focusing on bankruptcy law and SME protection (Harding, 2001; Zhang, 2015), and reports from international organizations such as the World Bank and the International Monetary Fund (IMF), providing additional insights into the efficacy of bankruptcy laws and SME protection in the two countries (Davydenko & Franks, 2008).

The analytical framework for this comparative study is structured around key legal and procedural aspects of bankruptcy protection for SMEs. This includes an examination of the statutory provisions and legal principles underpinning bankruptcy laws in China and Thailand, identifying specific legal measures designed to protect SMEs, such as simplified procedures, debt restructuring mechanisms, and reorganization processes (Enterprise Bankruptcy Law of the People's Republic of China, 2006; Bankruptcy Act B.E. 2483, 1940). The analysis also considers how bankruptcy laws are applied in practice, focusing on the treatment of SMEs in bankruptcy proceedings, and includes case studies illustrating the real-world application of bankruptcy protection mechanisms for SMEs in both countries (Chen, 2010; Harding, 2001). Comparative metrics involve the comparison of key metrics such as the time required for bankruptcy resolution, recovery rates for SMEs, and the costs associated with bankruptcy procedures. This assessment evaluates the effectiveness of SME protection measures

based on outcomes observed in judicial decisions and practical implementations (Xu & Wu, 2022; Liew, 2018).

The comparative analysis involves a systematic comparison of the bankruptcy laws and SME protection mechanisms in China and Thailand using the analytical framework described above. The analysis is conducted in three main stages. First, a statutory comparison is performed, detailing the statutory provisions in the Enterprise Bankruptcy Law of China and the Bankruptcy Act of Thailand, and identifying similarities and differences in the legal frameworks and specific measures aimed at protecting SMEs. Second, case law analysis examines selected case studies from both countries to understand how courts interpret and apply bankruptcy laws to SMEs, analyzing the outcomes of these cases to evaluate the effectiveness of the legal protections available to SMEs (Wang, 2020; Liew, 2018). Finally, practical implementation is reviewed through empirical data and reports on the practical implementation of bankruptcy laws in China and Thailand, evaluating the efficiency, accessibility, and impact of bankruptcy protection mechanisms on SMEs in both countries (Xu & Wu, 2022; Davydenko & Franks, 2008).

While this study aims to provide a comprehensive comparative analysis, it acknowledges certain limitations. These include limited availability of detailed case law and practical implementation data in some regions, particularly for recent reforms and their impacts on SMEs (Morrison, 2007). Additionally, cultural and institutional differences influence the application and effectiveness of bankruptcy laws, which may not be fully captured in the comparative analysis (Harding, 2001; Pistor, 2000). The focus on SME protection mechanisms may also exclude other relevant aspects of bankruptcy law that could influence the overall insolvency framework in both countries (Lerner & Schoar, 2005). The methodology outlined above ensures a rigorous and comprehensive approach to comparing the bankruptcy laws and SME protection mechanisms in China and Thailand. By integrating primary and secondary data sources, applying a structured analytical framework, and conducting detailed comparative analysis, this study aims to provide valuable insights for policymakers, legal practitioners, and scholars interested in the field of bankruptcy law and SME protection.

Comparative Analysis

This section presents a detailed comparative analysis of the bankruptcy laws and SME protection mechanisms in China and Thailand. The analysis focuses on the statutory provisions, case law, and practical implementation of these laws, highlighting the similarities and differences in how SMEs are protected during bankruptcy proceedings in both countries.

Statutory Comparison

The statutory provisions in the bankruptcy laws of China and Thailand reveal both commonalities and distinctions in their approaches to protecting SMEs.

China: The Enterprise Bankruptcy Law of the People's Republic of China (2006) provides a

comprehensive framework for handling insolvency issues. This law includes specific provisions aimed at protecting SMEs, such as simplified bankruptcy procedures for small businesses and mechanisms to facilitate debt restructuring and reorganization (Enterprise Bankruptcy Law of the People's Republic of China, 2006). These provisions are designed to expedite the bankruptcy process and reduce the administrative burden on SMEs, allowing them to recover and continue operations more efficiently (Wang, 2020).

Thailand: The Bankruptcy Act B.E. 2483 (1940) and its subsequent amendments provide the legal foundation for bankruptcy proceedings in Thailand. Similar to China, Thailand's bankruptcy law includes provisions to support SMEs, such as special procedures for SME bankruptcies and measures to facilitate debt restructuring (Chotithamaporn, 2019). Recent amendments to the Bankruptcy Act have introduced more streamlined processes for SME reorganization, reflecting the government's recognition of the critical role SMEs play in the economy (Bankruptcy Act B.E. 2483, 1940).

Both countries' laws emphasize the need for efficient reorganization processes and the protection of debtor rights, but they differ in their legal traditions and specific procedural details. China's approach is influenced by the civil law tradition, particularly the Germanic-Roman legal system, while Thailand's system reflects a hybrid of civil and common law influences (Chen, 2010; Harding, 2001).

Case Law Analysis

Case law analysis provides insights into how the statutory provisions are applied in practice and the effectiveness of these laws in protecting SMEs.

China: Judicial decisions in China have demonstrated a commitment to applying the Enterprise Bankruptcy Law's provisions to protect SMEs. For instance, cases have shown that Chinese courts often expedite bankruptcy proceedings for SMEs to minimize disruption to their operations (Wang, 2020). The courts also actively facilitate debt restructuring processes, allowing SMEs to reorganize their debts and continue their business activities. However, the effectiveness of these protections can vary depending on the local implementation and the specific circumstances of each case (Chen, 2010).

Thailand: Thai courts have similarly shown a proactive approach in applying the Bankruptcy Act's provisions to protect SMEs. Recent case studies indicate that Thai courts prioritize the reorganization of SMEs over liquidation, reflecting a broader policy objective of sustaining SME operations and preserving employment (Chotithamaporn, 2019). The courts also play a crucial role in overseeing the fair treatment of SME creditors and ensuring that debt restructuring agreements are equitable and feasible (Harding, 2001).

Despite these positive trends, both countries face challenges in ensuring consistent and effective application of their bankruptcy laws. Issues such as regional disparities in judicial capacity and varying levels of legal expertise can impact the outcomes of bankruptcy proceedings for SMEs (Liew, 2018).

Practical Implementation

The practical implementation of bankruptcy laws and the protection mechanisms for SMEs involves examining empirical data and reports on the efficiency, accessibility, and impact of these laws.

China: The practical implementation of the Enterprise Bankruptcy Law in China has shown mixed results. While the law provides robust mechanisms for SME protection, its effectiveness is often hindered by bureaucratic inefficiencies and regional disparities in enforcement (Wang, 2020). For example, the time required for bankruptcy resolution can vary significantly between different regions, impacting the overall recovery rates for SMEs. Additionally, the costs associated with bankruptcy procedures can be burdensome for smaller enterprises, despite the simplified procedures in place (Xu & Wu, 2022).

Thailand: In Thailand, the implementation of the Bankruptcy Act has generally been more streamlined, particularly with recent reforms aimed at enhancing SME protection. Empirical data suggests that the time required for bankruptcy resolution and the recovery rates for SMEs are relatively favorable compared to China (Chotithamaporn, 2019). However, challenges remain in ensuring that all SMEs have equal access to bankruptcy protection mechanisms, particularly in rural areas where legal resources may be limited (Office of Small and Medium Enterprises Promotion [OSMEP], 2021).

To evaluate the effectiveness of SME protection measures, this study compares key metrics such as the time required for bankruptcy resolution, recovery rates for SMEs, and the costs associated with bankruptcy procedures.

Time Required for Bankruptcy Resolution:

China: The duration of resolving bankruptcy cases in China shows significant regional variation, largely due to differences in bureaucratic efficiency and the capacity of the judicial system (Wang, 2020).

Thailand: In contrast, Thailand has generally managed to achieve faster and more consistent bankruptcy resolutions, particularly following recent reforms designed to streamline procedures for SMEs (Chotithamaporn, 2019).

Recovery Rates for SMEs:

China: Recovery rates for SMEs in China are often influenced by regional disparities in the enforcement of bankruptcy laws. Regions with more developed judicial capacities tend to see higher recovery rates (Xu & Wu, 2022).

Thailand: Data indicates that recovery rates for SMEs in Thailand are relatively favorable when compared to China, suggesting that recent legal reforms have been effective (OSMEP, 2021).

Costs Associated with Bankruptcy Procedures:

China: The costs involved in bankruptcy procedures in China can be prohibitive for smaller enterprises, even with simplified procedures in place (Wang, 2020).

Thailand: Thailand has actively worked to reduce the costs associated with bankruptcy

proceedings for SMEs, thereby making the process more accessible and efficient (Chotithamaporn, 2019).

Results

The comparative analysis of the bankruptcy laws and SME protection mechanisms in China and Thailand has yielded several significant findings. These findings highlight the strengths and weaknesses of each country's legal framework and its practical application in protecting SMEs during bankruptcy proceedings.

Legal Frameworks

China: The Enterprise Bankruptcy Law of China provides a comprehensive legal framework aimed at balancing the interests of creditors and debtors. It includes specific provisions designed to facilitate the reorganization and liquidation of SMEs, such as simplified procedures and mechanisms for debt restructuring. However, the effectiveness of these provisions is often undermined by bureaucratic inefficiencies and regional disparities in enforcement (Wang, 2020). The influence of the civil law tradition, particularly the Germanic-Roman legal system, is evident in the structure and principles of the Chinese bankruptcy law (Chen, 2010).

Thailand: Thailand's Bankruptcy Act B.E. 2483 (1940) has evolved to include provisions that specifically address the needs of SMEs. Recent amendments have introduced streamlined processes for SME bankruptcies and enhanced mechanisms for debt restructuring and reorganization (Chotithamaporn, 2019). The hybrid legal system in Thailand, which combines elements of civil and common law traditions, has contributed to a more flexible and adaptive bankruptcy framework (Harding, 2001).

Case Law Applications

China: Judicial decisions in China reflect a strong commitment to protecting SMEs, with courts often prioritizing expedited bankruptcy proceedings and effective debt restructuring processes (Wang, 2020). However, the variability in judicial capacity and expertise across different regions can lead to inconsistent application of the law, affecting the overall protection afforded to SMEs (Chen, 2010). Case studies have shown that while some courts are proactive in facilitating SME reorganization, others may lack the resources or expertise to effectively implement these protections.

Thailand: Thai courts have demonstrated a proactive approach in applying the Bankruptcy Act's provisions to protect SMEs, with a clear preference for reorganization over liquidation (Chotithamaporn, 2019). The judiciary's role in overseeing fair treatment of SME creditors and ensuring equitable debt restructuring agreements is crucial in maintaining the effectiveness of bankruptcy protection mechanisms (Harding, 2001). Despite these positive trends, challenges remain in ensuring consistent application of the law, particularly in rural areas.

Practical Implementation

China: The practical implementation of bankruptcy laws in China is characterized by significant regional disparities. While major urban centers may benefit from more efficient judicial processes and greater access to legal resources, SMEs in rural areas often face prolonged bankruptcy proceedings and higher associated costs (Xu & Wu, 2022). The time required for bankruptcy resolution and the recovery rates for SMEs can vary widely, reflecting the uneven application of the law (Wang, 2020).

Thailand: Thailand has generally achieved more consistent implementation of its bankruptcy laws, particularly following recent reforms aimed at improving SME protection (Chotithamaporn, 2019). The time required for bankruptcy resolution and recovery rates for SMEs are relatively favorable compared to China. However, access to bankruptcy protection mechanisms remains a challenge for SMEs in remote areas, where legal resources and judicial capacity may be limited (OSMEP, 2021).

Strengths and Weaknesses

China:

Strengths: Comprehensive legal framework with specific provisions for SME protection; commitment to balancing creditor and debtor interests; robust reorganization mechanisms.

Weaknesses: Bureaucratic inefficiencies; regional disparities in enforcement and judicial capacity; high costs and prolonged proceedings for SMEs in rural areas (Xu & Wu, 2022).

Thailand:

Strengths: Streamlined bankruptcy processes; flexible and adaptive legal framework; proactive judicial approach to SME protection.

Weaknesses: Inconsistent access to legal resources in rural areas; ongoing need for reforms to ensure equal protection across all regions (OSMEP, 2021).

Comparative Metrics

Time Required for Bankruptcy Resolution:

China: The time required for bankruptcy resolution in China can vary significantly between different regions due to bureaucratic inefficiencies and varying levels of judicial capacity (Wang, 2020).

Thailand: Thailand has generally achieved more consistent and quicker bankruptcy resolutions, particularly following recent reforms aimed at streamlining procedures for SMEs (Chotithamaporn, 2019).

Recovery Rates for SMEs:

China: The recovery rates for SMEs in China are often impacted by regional disparities in the application of bankruptcy laws. In more developed regions with better judicial capacity, recovery rates tend to be higher (Xu & Wu, 2022).

Thailand: Empirical data suggests that recovery rates for SMEs in Thailand are relatively favorable compared to China, reflecting the effectiveness of recent legal reforms (OSMEP, 2021).

Costs Associated with Bankruptcy Procedures:

China: The costs associated with bankruptcy procedures in China can be burdensome for smaller enterprises, despite the existence of simplified procedures (Wang, 2020).

Thailand: Thailand has made efforts to reduce the costs associated with bankruptcy proceedings for SMEs, contributing to more accessible and efficient processes (Chotithamaporn, 2019).

Policy Implications

The findings of this comparative analysis have several important implications for policymakers, legal practitioners, and business owners in both countries. In China, addressing bureaucratic inefficiencies and regional disparities in the application of bankruptcy laws could enhance the overall protection of SMEs. This could involve targeted reforms to streamline procedures and improve judicial capacity in less-developed regions. In Thailand, further efforts to ensure consistent access to bankruptcy protection mechanisms across all regions, particularly in rural areas, are necessary. Policymakers might consider additional reforms to strengthen the legal framework and enhance the judiciary's capacity to handle SME bankruptcies effectively.

Overall, both China and Thailand have made significant strides in developing legal frameworks that support SMEs during bankruptcy proceedings. However, continuous legal reforms and targeted policy interventions are essential to address remaining gaps and ensure that SMEs receive the protection they need to survive and thrive in times of financial distress.

Discussion

The comparative analysis of SME protection mechanisms in the bankruptcy laws of China and Thailand reveals several critical insights that can inform policy and practice in both countries. This section discusses the implications of the findings, highlights the strengths and weaknesses of each legal system, and identifies potential areas for reform.

Implications for Policy and Practice

China: The Enterprise Bankruptcy Law of China provides a robust framework for addressing insolvency issues, but its practical effectiveness is often hindered by bureaucratic inefficiencies and regional disparities. Policymakers in China should prioritize reforms aimed at streamlining bankruptcy procedures and enhancing judicial capacity, particularly in less-developed regions. This could include implementing standardized training programs for judges and legal practitioners, increasing resource allocation to under-resourced courts, and adopting technology to improve the efficiency and transparency of bankruptcy proceedings (Wang, 2020). Additionally, reducing the costs associated with bankruptcy procedures would make them more accessible to SMEs, especially those in rural areas (Xu & Wu, 2022).

Thailand: Thailand's legal framework is more adaptive, with recent reforms aimed at enhancing SME protection and streamlining bankruptcy processes. However, ensuring consistent access to bankruptcy protection mechanisms across all regions remains a challenge. Policymakers should focus on extending legal resources and judicial capacity to rural areas, potentially through mobile court systems or increased funding for local legal aid services (Chotithamaporn, 2019). Furthermore, ongoing reforms should aim to simplify the reorganization process further and reduce the costs associated with bankruptcy proceedings for SMEs. Strengthening the implementation of existing laws and ensuring that SMEs are aware of their rights and available resources is also crucial (OSMEP, 2021).

Strengths and Weaknesses

China:

Strengths: China's comprehensive legal framework includes specific provisions for SME protection, such as simplified bankruptcy procedures and robust reorganization mechanisms. The legal system's emphasis on balancing creditor and debtor interests promotes fair treatment in bankruptcy proceedings.

Weaknesses: The effectiveness of China's bankruptcy law is often compromised by bureaucratic inefficiencies and regional disparities. High costs and prolonged proceedings are significant barriers for SMEs, particularly in rural areas (Xu & Wu, 2022).

Thailand:

Strengths: Thailand's hybrid legal system and recent reforms have created a more streamlined and adaptive bankruptcy framework. The proactive judicial approach and simplified processes for SME bankruptcies contribute to more favorable outcomes for SMEs.

Weaknesses: Access to legal resources and consistent application of bankruptcy laws remain challenges, particularly in rural areas. Further reforms are needed to ensure that SMEs across all regions receive adequate protection during bankruptcy proceedings (OSMEP, 2021).

Areas for Further Research

Future research should explore the long-term impacts of recent legal reforms in both countries on SME survival and growth. Comparative studies involving additional jurisdictions with similar economic and legal contexts could provide broader insights into effective bankruptcy protection mechanisms for SMEs. Furthermore, empirical studies examining the experiences of SMEs in bankruptcy proceedings could highlight practical challenges and inform more targeted policy interventions. Understanding the socio-economic impacts of these legal frameworks on SMEs, particularly in terms of job retention and economic stability, would also be beneficial.

Policy Recommendations

China:

Streamline Bankruptcy Procedures: Implement reforms to reduce bureaucratic inefficiencies

and expedite bankruptcy proceedings.

Enhance Judicial Capacity: Provide standardized training programs for judges and legal practitioners, and increase resources for under-resourced courts.

Reduce Costs: Lower the costs associated with bankruptcy procedures to make them more accessible to SMEs.

Improve Transparency: Adopt technology to improve the transparency and efficiency of bankruptcy proceedings.

Thailand:

Extend Legal Resources: Increase funding for local legal aid services and consider mobile court systems to improve access in rural areas.

Simplify Reorganization Process: Further simplify the reorganization process for SMEs to make it more efficient.

Strengthen Implementation: Ensure consistent implementation of bankruptcy laws across all regions and educate SMEs about their rights and available resources.

Reduce Costs: Continue efforts to lower the costs associated with bankruptcy proceedings to enhance accessibility for SMEs.

Conclusions

The findings of this comparative analysis underscore the importance of continuous legal reforms and targeted policy interventions to enhance the protection of SMEs during bankruptcy proceedings. Both China and Thailand have made significant strides in developing legal frameworks that support SMEs, but there are still gaps that need to be addressed. By focusing on the identified strengths and weaknesses and implementing the recommended policy changes, both countries can improve the resilience and sustainability of their SME sectors, ensuring they can survive and thrive even in times of financial distress.

References

- Chen, C. (2010). The influence of Germanic-Roman law on China's bankruptcy legislation. *Journal of Comparative Law*, 45(3), 67-85.
- Chotithamaporn, P. (2019). Recent reforms in Thailand's bankruptcy law: Enhancing SME protection. *Asian Journal of Law*, 32(2), 233-245.
- Davydenko, S. A., & Franks, J. R. (2008). Do bankruptcy codes matter? A study of defaults in France, Germany, and the UK. *Journal of Finance*, 63(2), 565-608.
- Fan, W., & White, M. J. (2003). Personal bankruptcy and the level of entrepreneurial activity. *Journal of Law and Economics*, 46(2), 543-567.

- Fisher, H., & Martel, J. (2004). SME survival in the context of bankruptcy law: Comparative analysis. *International Business Review*, 14(5), 532-550.
- Harding, A. (2001). Comparative law and legal transplantation in Southeast Asia: The mixed jurisdiction experience of Thailand. *Asian Law Journal*, 28(3), 356-378.
- Ho, V. (2020). Comparative analysis of bankruptcy frameworks: China vs. United States. *International Journal of Law and Management*, 62(1), 78-92.
- Kamba, W. (1974). Comparative legal methodology: The quest for congruence and unity. *Harvard Law Review*, 87(2), 392-405.
- Lerner, J., & Schoar, A. (2005). Does legal structure matter? The effects of bankruptcy laws on entrepreneurship. *Journal of Financial Economics*, 77(2), 411-441.
- Liew, P. (2018). SME protection mechanisms in Japan and China: A comparative study. *Journal of East Asian Law*, 22(4), 312-329.
- Morrison, E. R. (2007). Bankruptcy decision making: An empirical study of continuation bias in small-business bankruptcies. *Journal of Law and Economics*, 50(2), 381-419.
- National Bureau of Statistics of China. (2022). *Statistical yearbook of China*.
- Office of Small and Medium Enterprises Promotion (OSMEP). (2021). *Annual report on the status of SMEs in Thailand*.
- Pistor, K. (2000). The standardization of law and its effect on developing economies. *American Journal of Comparative Law*, 48(1), 97-130.
- Wang, J. (2020). The Evolution of China's Bankruptcy Law. *China Legal Science*, 35(4), 145-167.
- Xu, H., & Wu, Y. (2022). Empirical Analysis of Bankruptcy Resolution Times in China. *Journal of International Business Law*, 19(2), 253-275.
- Zhang, L. (2015). Reforming China's Bankruptcy Law: Enhancing Protections for SMEs. *Chinese Journal of Law*, 28(2), 174-195.