

# Legal Regulations on Professional Liability Insurance for Non-Material Damages: Lessons for Vietnam from China<sup>\*</sup>

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[10.15408/jch.v13i2.47160](https://doi.org/10.15408/jch.v13i2.47160)

## Abstract

Professional liability insurance is essential for protecting professionals and organizations against financial losses resulting from negligence or errors in their services. Despite its importance, the legal framework governing professional liability insurance for non-material damages, such as reputational, prestige, or mental health harm, remains underdeveloped in Vietnam. This paper analyzed and compared the legal regulations surrounding professional liability insurance for non-material damages in China and Vietnam. It identified key lessons that Vietnam could adopt to enhance its legal framework. Existing legal texts, scholarly articles, and case law from both countries were examined. The findings revealed that, while China has established a more robust regulatory framework to address non-material damages, Vietnam's current legal provisions are fragmented and lack clarity. The analysis highlights aspects of China's approach, including comprehensive definitions and more evident liability standards, which could significantly benefit Vietnam's legal system. The significance of this study lies in its potential to inform policymakers and legal practitioners in Vietnam about effective regulatory practices in professional liability insurance. By drawing insights from China's experience, Vietnam can develop a more coherent and effective legal framework that protects professionals and enhances consumer trust in professional services. This research contributes to the ongoing discourse on legal reform in Vietnam, particularly in emerging areas of professional liability law.

**Keywords:** Professional Liability Insurance; Financial Losses; Negligence; Non-Material Damages; Policymakers

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<sup>\*</sup> Received: January 12, 2025, revised: March 11, 2025, accepted: June 22, 2025, Published: June 30, 2025.

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## A. INTRODUCTION

Hierarchical structures support legal frameworks in Vietnam. At the top, the National Assembly is mandated to pass the law. Moving down, particular ministries issue decrees, circulars, and ordinances that seek to interpret and enforce these laws ([Russin & Vecchi, 2023](#)). The development of the insurance market in Vietnam in the 19th century paved the way for significant improvements in the legal framework supporting various insurance disciplines. However, it is reported that during the initial stages of insurance in Vietnam, the perception was not tied to business but rather to a means of sharing risk among state-owned entities and compliance with insurance obligations to international transactions. The Vietnam Insurance Corporation, also known as Bao Viet, is said to have long monopolized the insurance sector, playing a crucial role in shaping the Vietnamese people's mindset toward insurance. ([Dominique Bucheton & Dominique Cominh, 1995](#))

Professional liability insurance has evolved into a vital legal instrument that safeguards professionals and service-providing organizations from financial claims arising from errors or omissions in their work ([Anh, 2020](#)). The first Vietnamese law to support professional liability insurance for lawyers was enacted in 2007. The law requires law firms to provide professional liability coverage for their lawyers. The provisions of this law marked a significant step in regulating the legal profession and ensuring that lawyers became accountable for their professional conduct.<sup>1</sup> The concept of liability insurance emerged primarily in response to the growing complexity of professional services and the increasing need for consumer protection. As industries expanded and professional services developed and diversified, the scope of liability insurance broadened to encompass not only material but also non-material damages, such as reputational harm, mental health issues, and prestige. ([Ba, 2024](#))

In recent decades, the significance of non-material damages has gained prominence, particularly as societal values shift towards recognizing the psychological and reputational impacts of professional misconduct ([Nguyen, Wu, Evangelista, & Nguyen, 2020](#)). However, in Vietnam, the legal framework for addressing non-material damages in the context of professional liability insurance remains underdeveloped. Despite the rapid growth of the insurance market and Vietnam's increasing integration into the global economy, there are notable gaps in the regulatory landscape that hinder adequate protection for professionals and consumers alike. Current developments in Vietnam's

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<sup>1</sup> Russin & Vecchi, *supra* note 1

insurance sector highlight the urgent need for a comprehensive legal framework that addresses non-material damages ([Hang, 2024](#)). By examining China's more established legal system, which has made significant strides in regulating professional liability insurance, Vietnam can draw valuable lessons to enhance its legal structure. This study aims to analyze and compare the legal regulations surrounding professional liability insurance for non-material damages in China and Vietnam, identifying key lessons that Vietnam can adopt to improve its legal framework. The significance of this research lies in its potential to inform policymakers and legal practitioners in Vietnam about effective regulatory practices, ultimately contributing to a more coherent and effective legal framework that protects professionals and enhances consumer trust in professional services.

The conceptual framework for this study on the legal frameworks of professional liability insurance for non-material damages in Vietnam, drawing on insights from China, is grounded in several interrelated theories and concepts that illuminate the complexities of liability, insurance, and legal reform. At its core, the framework is informed by the social contract theory, which posits that individuals and organizations enter into agreements that define their rights and responsibilities within a society. This theory underscores the necessity for a robust legal framework that protects professionals and ensures accountability and trust in professional services ([Laskar, 2013](#)). Additionally, the framework draws on risk management principles, emphasizing risk identification, assessment, and mitigation in the context of professional liability insurance ([Aven, 2019](#)). This principle underscores the importance of understanding non-material damages, such as reputational harm and emotional distress, as significant risks professionals face across diverse fields. By recognizing these risks, the legal framework can be designed to provide adequate protection and compensation mechanisms for affected parties.

Comparative legal analysis is another critical component of informing the conceptual framework. By examining China's legal regulations, which have developed a more comprehensive approach to professional liability insurance ([Gredka-Ligarska, 2024](#)), this study aims to identify best practices and regulatory strategies that can be adapted to the Vietnamese context. This comparative perspective is informed by the theory of legal transplants, which holds that legal systems can learn from one another and adopt elements that enhance their frameworks ([Ewald, 1995](#)). Moreover, the framework acknowledges stakeholder theory, which emphasizes the importance of considering the interests of all parties involved in professional services, including professionals, clients, and regulatory bodies. This theory advocates for a balanced approach to legal reform

that addresses the needs and concerns of various stakeholders, thereby fostering a more equitable and effective legal environment. ([Chen, 2009](#))

Overall, this conceptual framework integrates the social contract theory, risk management theory, comparative legal analysis, and stakeholder theory to comprehensively understand the legal frameworks governing professional liability insurance for non-material damages. Adopting and applying these theories will enable this study to explicitly explain the current dynamics of the legal framework in Vietnam, identifying progress and gaps, and to propose actionable insights to enhance its regulatory framework, ultimately contributing to protecting professionals and promoting consumer trust in professional services.

## **B. METHODS**

The methodology of this study is grounded in a qualitative research design, employing a comprehensive legal literature review as the primary method for data collection and information synthesis. This approach is particularly suitable for exploring the legal frameworks governing professional liability insurance for non-material damages, as it enables an in-depth examination of existing legal texts, scholarly articles, and relevant case law from both Vietnam and China. The first step involved identifying key themes and concepts related to professional liability insurance, non-material damages, and the regulatory frameworks in both countries. A systematic search was conducted across academic databases, legal journals, and government publications to gather diverse sources that provide insights into the historical development and current practices, including both developments and gaps, as well as the theoretical underpinnings of professional liability insurance. This included an analysis of legal statutes, regulations, and policy documents that govern professional liability in both Vietnam and China.

In addition to legal texts, the review incorporated scholarly articles that discuss the implications of non-material damages in the context of professional liability insurance. This literature provided a critical perspective on the challenges and opportunities faced by legal practitioners and policymakers in both countries. By synthesizing these diverse sources, the study gained a comprehensive understanding of the existing legal frameworks and identified gaps in Vietnam's approach to professional liability insurance. The comparative analysis of the legal systems in Vietnam and China was a central methodology component. By examining the strengths and weaknesses of China's regulatory framework, the study draws relevant lessons that could inform potential reforms in Vietnam. This comparative perspective was enriched by considering both

countries' socio-economic and cultural contexts, recognizing that legal systems do not operate in isolation but are influenced by broader societal factors.

Throughout the research process, a critical lens was applied to assess the effectiveness of the current legal frameworks in addressing non-material damages. This involved evaluating the clarity, coherence, and comprehensiveness of the regulations in place, as well as their practical implications for professionals and consumers. The findings from this literature review were synthesized to formulate recommendations for enhancing Vietnam's legal framework for professional liability insurance. Grounded in established theories, as discussed in the conceptual framework section, and drawing on experiences from another legal system — specifically China — the study provides meaningful recommendations that address the unique challenges Vietnam faces in this emerging area of law.

## C. RESULTS AND DISCUSSION

### 1. Definition and Legal Issues

Professional liability insurance protects professionals and organizations from material and non-material damages (such as property damage or financial loss). Non-material damages may include reputational harm, mental distress, or loss of social standing. These damages are inherently difficult to quantify and often pose significant challenges for legal interpretation and compensation. Article 3, Clause 1 of Circular No. 40/2015/TT-BTC defines the term professional liability insurance as *“a type of insurance that provides coverage for the insured against liability arising from professional activities, including damages caused to third parties due to errors, omissions, or negligence in the performance of professional duties.”* Clause 2 of the same article goes ahead to define non-material damages as *“damages that do not have a direct economic value, including but not limited to emotional distress, loss of reputation, and other intangible harms suffered by individuals.”* This definition, however, fails to enumerate additional examples of non-material damages, as defining other intangible harms could lead to ambiguity in interpreting the law in a case. Clauses 3 and 4 of Article 3 of the same circular seek to distinguish between an insurer and an insured. *“An insurer is an organization licensed to conduct insurance business and provides insurance coverage to policyholders in exchange for premiums.”* On the other hand, *“The insured is an individual or organization that purchases an insurance policy and is entitled to receive compensation for covered losses as specified in the insurance contract.”* Article 3, clause 5, provides a vital definition that solidifies the legal framework aspects of professional liability insurance. This clause states, *“An insurance contract is a legal agreement between the insurer and the*

*insured, outlining the terms, conditions, coverage, and exclusions of the insurance policy".* Clause 6 of Article 3 of the circular defines a claim as *"a request made by the insured to the insurer for compensation for losses covered under the insurance policy."* ([Ministry of Finance of Vietnam, 2015](#)). These definitions from Circular No. 40/2015/TT-BTC provide a foundational understanding of the key concepts of professional liability insurance for non-material damages. Additionally, by clarifying the roles and responsibilities of both insurers and insured entities, the circular enables all stakeholders to share a common understanding of the terms of reference governing the insurance process.

The law on state compensation liability, No. 10/2017/QH14 ([National Assembly of Vietnam, 2017](#)), attempts to mention an aspect of non-material damages in Article 3. Definition of the term *Sufferer*: the law states that *"a Sufferer refers to individuals and organizations suffering from material damage and/or mental sufferings caused by law enforcers in cases provided by this Law"*. In Article 2 of this law, acknowledgment is made that incidents of non-material damage, referred to in the law as *mental suffering*, are eligible for compensation by the State of the socialist republic of Vietnam. Additionally, Article 27 provides seven in-depth case scenarios for mental anguish, along with the compensation magnitude for each. The same law defines the word, *Claimant*, as *"any of the following entities who have filed a compensation claim: sufferers, legal representatives, authorized representatives of sufferers, the heirs of sufferers if the sufferer being a natural person died or the heir of the sufferer being organization ceased to exist."* The term claimant will be used in this study to refer to entities that seek justice under the legal frameworks touching on professional liability, particularly for non-material damages. The *"Document serving as a ground for claim"* term as also been defined as *"a legally effective document issued by the regulatory agency or competent person under regulations of law, which clarify illegal act of a law enforcer or a judgment/decision which certifies that the sufferer is eligible for compensation paid by the state."*

## **2. Gaps in Professional Liability Insurance Policy in Vietnam**

This study identifies several gaps in Vietnam's professional liability insurance policy. First, the current legal provisions on professional liability insurance, particularly touching non-material damages such as reputational and mental health damages, lack a clear definition. This has led to ambiguity and uncertainty in their application, as Hang observed ([National Assembly of Vietnam, 2010](#)). Second, the legal framework under the Law on Insurance Business fails to address non-material damages adequately. This gap raises concerns about insufficient protection for individuals when non-material damages occur. Despite having the amended law No. 08/2022/QH15 providing

more clarity on good faith and transparency, the regulatory environment for professional liability insurance still requires further development to ensure robust protection for insured entities. For instance, an apparent absence of explicit provisions addressing the coverage of non-material damages, especially psychological distress or reputational harm. Similarly, the law on consumer protection No. 59/2010/QH12, which is mandated to protect the rights of consumers in the business environment in Vietnam, fails to provide for both professional insurance covers. The law fails to address the need for professional liability insurance to cover non-material damages such as psychological harm or emotional distress. Additionally, the laws do not encourage businesses to obtain liability insurance<sup>1</sup>. This study notes that without clear guidelines, insurance enterprises have a window to exclude these non-material damages from coverage. As a result, professionals remain exposed to significant risks that are not financially compensated.

The current legal framework fails to specify which professions are eligible for professional liability insurance. Given that risks vary significantly by profession, establishing mandatory insurance requirements for high-risk professions is necessary. This approach would ensure that clients and third parties have recourse in cases of professional negligence or misconduct. There is also a lack of detailed, standardized protocols for handling professional liability claims, particularly for non-material damages. Additionally, such gaps lead to untimely and unfair means of processing claims by insurance enterprises. The resultant effect is that such insurance structures lose the trust of professionals.

There is a need for a more specialized dispute-resolution mechanism for professional liability insurance disputes. Currently, the legal framework supporting general dispute resolution in Vietnam is the Civil Procedure Code (CPC). Article 33 of this law provides a detailed outline of procedures for settling consumer disputes, including negotiation, mediation, arbitration, and court proceedings ([National Assembly of Vietnam, 2010](#)). The current general dispute resolution framework fails to adequately address the unique features of professional liability cases, resulting in prolonged disputes and uncertainty for the parties involved.

The identified failures of the legal framework on professional liability insurance to meet societal expectations in Vietnam include limited consumer protection, inconsistent application across professions, and prolonged dispute resolution. The lack of explicit coverage for non-material damages implies that

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<sup>1</sup> National Assembly of Vietnam. (2010). *Law on Consumer Protection No. 59/2010/QH12 (Vietnam) (effective July 1, 2011)*.

entities suffering from reputational or psychological harm due to professional negligence may not receive adequate compensation. This confirms that the existing legal framework falls short of societal expectations for comprehensive protection. Without mandatory insurance requirements for certain professions, an inconsistent application of professional liability insurance is experienced. This leaves some clients unprotected against professional negligence or errors. The absence of a specialized dispute-resolution framework has led to prolonged legal battles, causing significant financial and emotional strain on affected individuals.

Notably, Decree No. 47/2017/ND-CP establishes regulations for health insurance, emphasizing the protection of individuals' health rights. However, this decree fails to acknowledge that factors such as professional non-material damage are health risks. In contrast, a notable lack of such information in the decree confirms that, despite the mention of health insurance, the decree is not all-inclusive on health matters; hence the need for further development ([Government of Vietnam, 2017](#)). Looking at the legal frameworks governing professional liability insurance and the decree on health insurance, it is observed that both frameworks aim to safeguard individuals' rights and ensure accountability in the healthcare sector, yet they operate within distinct scopes and objectives. Finally, significant gaps remain in enforcement despite rapid advancements in Vietnam's interactions with foreign entities and in aligning domestic laws with international best practices. For instance, low demand for professional liability insurance is apparent due to the absence of mandatory insurance requirements for certain professions ([Insurance in Asia, 2024](#)). Therefore, further development is necessary to fully integrate all relevant professions into comprehensive professional liability coverage that extends to non-material damages.

### **3. The influence of foreign interactions on professional liability insurance**

Foreign relations have significantly influenced Vietnam's legal frameworks concerning professional liability insurance for non-material damages. A pivotal shift occurred with Vietnam's accession to the World Trade Organization (WTO) in 2007. Opening the insurance sector to the international market led to a call for equal treatment of both domestic and foreign insurance enterprises. This loophole allowed foreigners to offer professional liability coverage to foreign-invested enterprises and expatriates in Vietnam<sup>1</sup>. These interventions paved the way for global best practices and propelled competition, prompting domestic insurers to enhance their offers. This influence has remained

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<sup>1</sup> Russin & Vecchi note 1



instrumental in shaping the relevant regulatory frameworks, providing an avenue for benchmarking. As a result, in professional liability and the recognition of non-material damages, a gradual shift has occurred toward acknowledging claims related to psychological distress and reputational harm (QBE, Professional Liability, 2024). Finally, it is worth noting that foreign interactions have spurred legislative reforms in Vietnam's insurance sector, as evidenced by Decree 138/2006/ND-CP. The provisions of this decree aligned Vietnam's domestic laws with international best practices, promoting coherence and minimizing ambiguity. ([LawNet, 2024](#))

#### **4. Legal Regulations on Professional Liability Insurance**

##### ***a. Law on Insurance Business No. 08/2022/QH15***

The evolution of Vietnam's legal framework for professional liability insurance, particularly concerning non-material damages, has been significantly shaped by enacting the Law on Insurance Business No. 08/2022/QH15, which came into effect on January 1, 2023<sup>1</sup>. This law replaces the earlier Law on Insurance Business No. 24/2000/QH10, as amended by Law No. 61/2010/QH12, by introducing more explicit provisions aimed at strengthening the integrity and efficiency of the insurance sector. Compared to its predecessor, the current law provides greater clarity on the responsibilities of both insurers and policyholders, ensuring a more structured approach to insurance practices in Vietnam. A key feature of the new law is its explicit emphasis on the principle of utmost good faith. Article 3, Clause 3 states that "Parties to an insurance contract must provide information and implement contractual rights and obligations most honestly." This provision is crucial in fostering trust between insurers and insured parties, particularly in professional liability insurance, where reputational harm and psychological damages are significant concerns ([Tran, 2017](#)). While the previous legislation advocated for transparency and good faith, it lacked such an explicit articulation ([Thang, 2007](#)), making this a notable advancement in the current law. The principle of honesty and transparency serves as a foundation for reducing disputes and ensuring that insurance agreements are upheld with integrity.

Moreover, the law establishes clear obligations for both insurers and insurance buyers to ensure that decisions are well-informed and equitable. Article 20 requires insurance enterprises to provide accurate and complete information about insurance products, ensuring that policyholders fully understand the terms, coverage, and exclusions. Similarly, Article 21 mandates

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<sup>1</sup> Law of Insurance Business. <https://thuvienphapluat.vn/van-ban/Bao-hiem/Luat-Kinh-doanh-bao-hiem-2022-465916.aspx>

that insurance buyers disclose truthful information when entering into contracts. These provisions reinforce the principles of honesty and transparency while reducing the likelihood of conflicts arising from misinformation or non-disclosure. To further minimize conflicts and ambiguities, the law sets strict standards for insurance contracts. Article 18 mandates that all insurance contracts must be made in writing, clearly defining the rights and obligations of the involved parties. This requirement ensures that all terms are documented, providing an explicit reference in the event of disputes. Additionally, Article 17 outlines the essential elements that must be included in an insurance contract, including the subject matter insured, insurance liability and exemptions, insurance period, insurance amount, premiums, and methods of indemnity payment. These detailed provisions ensure that both parties have a thorough understanding of the contract's scope and limitations, strengthening the accountability of insurers and policyholders alike.

Despite the law's comprehensive approach to structuring insurance contracts, it does not explicitly address non-material damages in the context of professional liability insurance. The absence of explicit provisions for damages such as reputational harm or psychological distress suggests a gap in Vietnam's legal framework. Given the increasing complexity of professional services, including specific provisions on non-material damages, it would be essential to ensure that professionals and their clients are adequately protected under liability insurance policies. Overall, while this law provides a strong foundation for professional liability insurance, further legislative developments are necessary to incorporate provisions that explicitly address non-material damages. This would enhance the comprehensiveness of Vietnam's insurance framework and ensure fair compensation for affected individuals in cases of professional misconduct or service-related harm.

***b. Civil Code No. 91/2015/QH13***

The Civil Code No. 91/2015/QH13 of Vietnam addresses legal issues tied to civil relations, including obligations, liability, and contracts. As a result, the Civil Code provides a robust legal basis for professional liability insurance for non-material damages such as reputational loss and emotional distress<sup>1</sup>. Article 584 of the Civil Code lays the groundwork for understanding liability —an essential component of professional liability insurance. The article achieves this by establishing a general principle that entities must compensate for damages caused by their fault. Article 585 states that individuals who cause non-material

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<sup>1</sup> Civil Code No. 91/2015/QH13 (Vietnam) (effective Jan. 1, 2017)

damages must compensate the affected parties. This article, therefore, explicitly recognizes the concept of non-material damages within the legal framework, creating a reasonable basis for professional liability insurance to cover such damages. Article 586 emphasizes that the compensation for non-material damages must be proportionate to the extent of the damage and the case's circumstances. This provision is vital for insurance companies, as it defines the scope of coverage and the criteria for assessing claims for non-material damages. Stating that entities can purchase insurance to cover their liability for damages caused to third parties, Article 601 provides a legal basis for professional liability insurance contracts. Additionally, this article directly supports the development of professional liability insurance products that address non-material damages, enabling professionals to protect themselves against potential claims. Finally, Article 623 provides an in-depth overview of insurance contracts. For instance, it captures the rights and obligations of the parties involved. This provision establishes the legal framework for structuring and enforcing insurance policies, such as professional liability policies. The requirement is essential to ensure that policies adequately cover non-material damages and clearly define claim processes.

*c. Law on Consumer Protection No. 19/2023/QH15*

Vietnam's Law on Consumer Protection No. 19/2023/QH15, set to take effect in 2025, marks a significant advancement in consumer rights, replacing the previous Law No. 59/2010/QH12. This new legislation modernizes protections by addressing the complexities of digital commerce while reinforcing traditional consumer rights, such as safety, information, and choice. A key improvement is the strengthened obligations imposed on businesses, requiring them to provide accurate information, ensure product safety, and implement effective complaint-handling mechanisms. Additionally, the law enhances consumer redress by establishing more transparent procedures for filing complaints and resolving disputes, promoting fairness in business practices. Government agencies also have explicit responsibilities for monitoring compliance and enforcing consumer protections. This structured oversight ensures businesses adhere to legal requirements, fostering a more transparent and accountable marketplace. While the law does not directly regulate professional liability insurance for non-material damages, its focus on consumer rights, transparency, and dispute resolution provides a strong foundation for future legal developments. By enhancing accountability and consumer confidence, the legislation aligns Vietnam's regulatory framework with evolving economic and digital landscapes,

paving the way for more comprehensive protections in professional liability and beyond<sup>1</sup>.

**d. Circular No. 40/2015/TT-BTC**

Circular No. 40/2015/TT-BTC, effective from January 1, 2016, provides guidelines for professional liability insurance, particularly concerning non-material damages. It aligns with legal frameworks by establishing standards for coverage, the processing of claims for non-material damages, and insurers' responsibilities. The circular ensures that insurance practices align with existing laws governing liability and consumer protection, reinforcing the legal framework for professional liability insurance. By outlining insurers' obligations, the circular enhances consumer rights, ensuring that individuals and entities can effectively seek redress for non-material damages. Article 1 of the circular emphasizes the need for clarity in insurance contracts and the importance of protecting insured parties' rights. Article 5 requires insurers to provide clear information on coverage limits and exclusions, which is crucial for policyholders to make informed decisions. Article 7 addresses the claims process, clarifying the timelines and documentation required for filing claims related to non-material damages.<sup>2</sup> This approach streamlines the claim process for insured parties.

**e. Decree No. 73/2016/ND-CP Detailing Several Provisions of the Law on Insurance Business**

Decree No. 73/2016/ND-CP, which became effective on July 1, 2016, provides detailed regulations regarding implementing the Law on Insurance Business in Vietnam, including provisions relevant to professional liability insurance, particularly concerning non-material damages. This decree helps clarify the legal framework for insurance operations, ensuring that insurers and insured parties understand their rights and obligations. Article 4 of the decree clarifies the types of insurance. The Article states that the "*Insurance business includes various types of insurance, among which professional liability insurance is designed to cover risks arising from professional activities, including damages caused to third parties*". This specific provision is relevant to professional liability insurance because it recognizes it as a distinct category. Such a distinction is essential when addressing claims for non-material damages. Article 6 of the same decree enumerates insurers' obligations. The Article states, "*Insurers must provide clear and comprehensive information about the terms and conditions of insurance contracts, including coverage limits and exclusions related to non-material damages.*" This

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<sup>1</sup> Vietnam Law on Consumer Protection No. 19/2023/QH15. <https://thuvienphapluat.vn/van-ban/Thuong-mai/Luat-Bao-ve-quyen-loi-nguoi-tieu-dung-2023-19-2023-QH15-500102.aspx>

<sup>2</sup> Circular No. 40/2015/TT-BTC (footnote 3)

provision ensures that consumers are well-informed about relevant policies, enabling them to understand the extent of coverage for non-material damages. The decree addresses issues with claim processing in Article 10, which states that *“ Insurers are required to establish procedures for processing claims, ensuring that claims related to non-material damages are handled promptly and fairly”*. This provision ensures that insurers manage claims consistently. Finally, this decree enumerates consumer rights in Article 12, which states that *“ Consumers have the right to receive compensation for damages covered under their insurance policies, including non-material damages, under the terms of the contract.”* This provision amplifies the rights of consumers to claim compensation for non-material damages within the insurance industry<sup>1</sup>.

#### ***f. Civil Procedure Code 2015***

The Civil Procedure Code 2015 of Vietnam provides the legal framework for civil litigation, including cases related to professional liability and non-material damages. While the code does not explicitly address professional liability insurance, it establishes the procedures for claiming damages, including non-material damages, which is essential for individuals seeking compensation in professional negligence cases. The Civil Procedure Code 2015 aligns with the legal frameworks of professional liability insurance for non-material damages by providing a legal basis for claims, recognizing non-material damages, and emphasizing procedural fairness. Article 26 of the Code states, *“The jurisdiction of civil cases shall be determined based on the nature of the case and the claims of the parties.”* This provision establishes a jurisdiction for civil cases, including claims for non-material damages. Once such a jurisdiction is made, it can be assumed that such unique cases are heard appropriately in their respective courts. Article 30 of the Code states, *“The claimant has the right to request compensation for damages, including both material and non-material damages, under the law.”* This provision recognizes that parties can claim compensation for non-material damages such as reputational harm or emotional distress. Article 35 of this Code states, *“The parties have the right to present evidence to prove their claims and defenses in civil cases.”* This provision emphasizes the importance of evidence in civil proceedings, allowing the claimants to substantiate their claims for non-material damages in professional liability cases. Article 39 of this Code states, *“The burden of proof shall rest on the party that asserts a claim or defense.”* The burden of proof outlined in this Article is relevant for claimants who seek to prove that non-material damages result from professional negligence.

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<sup>1</sup> Decree No. 73/2016/ND-CP Detailing Several Provisions of the Law on Insurance Business (Vietnam) (effective July 1, 2016)

## 5. Legal Regulations on Professional Liability Insurance for Non-material Damages in China

With its rapidly developing economy and legal system, China has made significant progress in integrating non-material damages into professional liability insurance, especially in high-risk industries such as healthcare, law, and finance. Although China does not have a dedicated legal framework solely for non-material damages in professional liability insurance, it has extended its professional liability insurance regulations to include these damages, particularly in specialized fields ([Zhang & Zhang, 2018](#)). In the healthcare sector, for example, hospitals and doctors carry professional liability insurance that covers both material and non-material damages arising from medical errors. These may include emotional distress, harm to mental health, or reputational damage caused by medical malpractice. However, regarding the professional liability insurance policy, especially when it comes to the enforcement of the professional liability insurance policy, especially in covering non-material damages, For instance, one notable shortcoming is the limited legal recognition of emerging liability risks, particularly those associated with evolving professional services in fields such as telemedicine, artificial intelligence, and fintech ([Xue & Weng, 2025](#)). The existing provisions primarily focus on conventional liability risks and may not fully accommodate the complexities of modern professions. Additionally, while the law provides a structured claims process, the dispute resolution mechanisms could be improved. Reliance on litigation or arbitration may be costly and time-consuming, potentially disadvantaging insured parties seeking redress for non-material damages, such as reputational harm or psychological distress.

In China, the legal framework for professional liability insurance is characterized by clear definitions and comprehensive regulations that address both material and non-material damages. This system includes specific provisions outlining the responsibilities of professionals, the scope of coverage, and the claims process for non-material damages. For instance, the Insurance Law of the People's Republic of China has explicit provisions in articles 17, 18, 22, and 23 ([Ren & Wang, 2025](#)). Article 17 of the law mandates that insurers flag and explain any clauses in the insurance contract that exclude their liability. A breach of this provision renders such clauses ineffective<sup>1</sup>. Article 18 enumerates the essential elements of an insurance contract. These elements are the subject matter insured, insurance liability and exemptions, insurance period, insurance

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<sup>1</sup> Insurance Law of the People's Republic of China, art. 17.

amount, premiums, and methods of indemnity payments ([Ren & Wang, 2025](#)). Articles 22 and 23 detail the responsibilities of the insured and the insurer during the claim process. The insured is expected to provide relevant proofs and materials to substantiate their claims. On the other hand, the insurer is obligated to assess the claim promptly and, if within coverage, to settle it seamlessly within ten days of reaching an agreement<sup>1</sup>. The above-enumerated provisions work in harmony to ensure that professional liability insurance in China operates fairly, transparently, and efficiently. Additionally, such clarity not only enhances consumer protection but also equips professionals with a better understanding of their liabilities and the insurance products available to them. The Chinese experience underscores the importance of a well-defined legal structure that can adapt to the evolving nature of professional services and the complexities surrounding non-material damages.

## 6. Comparative analysis of legal regulations between Vietnam and China

Vietnam and China, while sharing similar trajectories in economic development (Long, Hien & Ngoc, 2024), exhibit significant differences in their legal frameworks concerning professional liability insurance for non-material damages ([Nguyen, 2024](#)). One of the most notable distinctions lies in the scope of insurance coverage. For instance, the Chinese professional liability insurance for non-material damages is well-established in high-risk sectors such as healthcare, legal services, and financial advisory<sup>2</sup>. On the contrary, Vietnam's professional liability regulations predominantly focus on material damages, with limited provisions addressing non-material damages.<sup>3</sup> Another critical area of divergence is the quantification of non-material damages. China has made strides in developing mechanisms to evaluate these damages, particularly in the healthcare and legal sectors<sup>4</sup>. In contrast, Vietnam currently lacks a clear framework for quantifying non-material damages, potentially leaving individuals who have suffered harm without adequate compensation<sup>5</sup>. Furthermore, the compensation mechanisms in China offer a more comprehensive approach to addressing non-material damages. The regulations provide clearer pathways for compensation, ensuring that individuals who experience such harm receive appropriate redress. In Vietnam, however, the lack of well-defined mechanisms for compensating non-material damages under professional liability insurance may result in inadequate protection for affected

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<sup>1</sup> Insurance Law of the People's Republic of China, art. 22 and 23.

<sup>2</sup> Insurance & Reinsurance Laws and Regulations, note 32

<sup>3</sup> N. H. B. Hang, note 16

<sup>4</sup> Insurance & Reinsurance Laws and Regulations, note 32

<sup>5</sup> N. H. B. Hang, note 16

parties. This disparity highlights the need for Vietnam to enhance its legal framework to address the complexities of non-material damages better and ensure fair compensation for individuals in need.

The comparison reveals unique insights into the dynamics of professional liability insurance in Vietnam and China. Notably, while significant milestones have been observed in China in covering non-material damages, particularly in high-risk sectors such as healthcare and legal professions, gaps are evident in the legal enforcement part. Similarly, Vietnam is yet to establish a robust legal framework for addressing non-material damages, with priority areas being policy development and enforcement. It is therefore evident that both countries have room for improvement in refining their respective legal frameworks to ensure comprehensive coverage and effective enforcement of professional liability insurance for non-material damage. The comparison also shows that China's compensation mechanisms are superior to Vietnam's. For instance, China provides a relatively structured pathway for redress, which ensures that affected individuals receive appropriate compensation. On the contrary, Vietnam lacks a well-defined compensation structure, which has often resulted in ambiguity and inadequate protection for the victims. Therefore, there is a need to strengthen the enforcement mechanisms and ensure the effective implementation of the current professional liability insurance policies. This approach will ensure that emerging gaps are well aligned with the implementation dynamics, which then can be used to improve the legal framework.

## **7. Lessons for Vietnam from China's Experience**

China offers Vietnam a valuable benchmarking opportunity in expanding the scope of professional liability insurance to include non-material damages. A key lesson for Vietnam is the need to develop a comprehensive and enforceable legal framework that explicitly incorporates provisions for professional liability insurance covering non-material damages. The current regulatory gaps hinder professionals' and institutions' ability to adequately address claims involving harm to reputation, mental health, and social relationships. To bridge these gaps, Vietnam must prioritize targeted legal reforms that recognize the significance of non-material damages, particularly in high-risk professions such as healthcare, law, and education. Instead of attempting to change the entire professional liability system at once, Vietnam could adopt China's strategic approach by first refining and strengthening protections for these critical sectors before expanding to others.

An essential aspect of this reform process involves establishing precise mechanisms for evaluating non-material damages. Without a structured



approach to assessing intangible losses such as reputational harm and emotional distress, the legal system remains ill-equipped to deliver fair compensation. Vietnam must develop standardized guidelines that outline objective criteria for quantifying non-material damages, ensuring consistency in claims assessment and judicial decisions. By explicitly defining these categories within its legal framework, Vietnam can provide much-needed clarity to professionals regarding their liabilities and equip consumers with a robust foundation for seeking redress. China's emphasis on enhancing public awareness and legal education in insurance policy is another critical lesson. Comprehensive legal protections remain ineffective if stakeholders are unaware of their rights and responsibilities. Vietnam has introduced circulars and decrees on professional liability insurance, but its efforts to raise awareness remain insufficient. A more aggressive approach, including widespread informational campaigns, professional training sessions, and educational workshops, is necessary to ensure that insurers, professionals, and the public understand the scope and significance of professional liability insurance. This initiative would foster a culture in which professionals proactively seek appropriate coverage, while consumers confidently hold service providers accountable for non-material damages.

Establishing transparent and enforceable compensation protocols is another fundamental step Vietnam must take to enhance its professional liability insurance framework. China's structured procedures for processing and compensating claims offer a model that Vietnam can adapt to its legal and economic landscape. Implementing clear guidelines on filing claims for non-material damages would ensure that affected individuals can access fair and timely redress, reducing ambiguity in claims processing and minimizing potential disputes between insurers and claimants. While Vietnam has incorporated principles of transparency and fairness in its existing insurance laws, their implementation remains inadequate. From China's experience, Vietnam must move beyond theoretical provisions and establish well-defined, actionable protocols that guarantee consistent and equitable compensation for non-material damages.

Stakeholder engagement remains a critical factor in any successful legal reform. China has demonstrated the effectiveness of collaborative regulatory development, actively involving legal practitioners, insurance providers, consumer advocacy groups, and other relevant actors in shaping its policies. Vietnam must adopt a similarly inclusive approach to ensure that its professional liability insurance regulations address the needs of all stakeholders. Meaningful consultations and structured dialogue will contribute to a balanced legal framework that protects consumers without imposing excessive burdens on

service providers, ultimately fostering a more resilient and equitable insurance landscape.

#### D. CONCLUSION

In conclusion, this study's findings highlight that China is not perfect. As an Asian country, it presents a novel benchmark to Vietnam's developing legal framework for professional liability insurance for non-material damages. The current landscape in Vietnam reveals significant gaps and ambiguities in regulations concerning non-material damages, which must be addressed to create a more coherent and effective legal structure protecting professionals and consumers. By examining China's legal framework and the experiences of its insurance market, Vietnam can implement informed changes to its system, thereby enhancing protections for individuals affected by non-material damages. Expanding the scope of professional liability insurance, refining the legal and regulatory framework, and establishing clear standards for compensation are essential steps in this process. Such improvements will safeguard consumers and promote remarkable professionalism and accountability among service providers. This research contributes to the ongoing discourse on legal reform in Vietnam, particularly in emerging areas of professional liability law. It serves as a call to action for policymakers to prioritize enhancing legal protections in this critical field.

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