



Received: 10-02-2026
Accepted: 20-03-2026

International Journal of Advanced Multidisciplinary Research and Studies

ISSN: 2583-049X

Compensation Provisions in the Labor Framework of the USA and Implications for Vietnam

¹ Nguyen Minh Chau, ² Pham Thanh Vinh

¹ Hanoi Law University, Vietnam

² Hanoi University, Vietnam

DOI: <https://doi.org/10.62225/2583049X.2026.6.2.6043>

Corresponding Author: **Pham Thanh Vinh**

Abstract

Compensation for damages in labor relations plays an important role in ensuring the rule of law, social security and fairness in a market economy. This article will analyze the foundation and mechanism of compensation for damages in Vietnamese labor law, with a comparison to the United States – a typical model of the common law system. Based on the comparison of the two different models of labor laws, the differences in the philosophy of the two systems – one focusing on individual responsibility, materialization, and deterrence through punitive measures of compensation and

labor insurance, and the other focusing on the distribution of social risks and workers' protection through mandatory social insurance – will be clarified. Based on the comparison of the two different models of labor laws, the differences in philosophy, scope of compensation, and enforcement will be clarified. Based on the findings of the comparative study, recommendations will be proposed to improve Vietnamese labor law to establish a "fair and effective" labor compensation mechanism, consistent with the socialist orientation and the trend of international integration.

Keywords: Compensation, Damages, Labor Law, United States, Vietnam

1. Introduction

In the process of globalization and deep international integration, ensuring the rights of workers and the balance of labor relations in terms of fairness has become a key issue of the legal policy of almost all countries. In this respect, the mechanism of compensation for labor damages plays a very important role, not only in the process of compensating economic and moral damages due to the violation of labor relations, but also in ensuring labor discipline, production order, and social stability. In Vietnam, the legal policy on the issue of compensation for labor damages has been gradually improved through the Labor Code 2019, the Law on Occupational Safety and Hygiene 2015, and the Civil Code 2015. However, in the process of applying these laws, some shortcomings were seen in ensuring the rights of workers less than optimally.

On the other hand, the US, as an exemplary model of the common law system, has developed an effective, flexible, and principled system of compensation of workers' rights. The "Workers' Compensation" and "no fault" mechanisms have proved effective in the protection of workers, as well as the maintenance of business stability. The comparison of the two legal systems, which are based on different approaches in the achievement of social welfare, is useful in the improvement of the compensation system of workers' rights in Vietnam.

On the basis of such a practical reality, this article attempts to analyze and compare the compensation systems under the US and Vietnamese labor laws, leading to the identification of the differences in the philosophies of the two laws as well as the scope of the compensation systems under each of them. This will also help to find the solution to perfect the Vietnamese laws. The findings of the research are of great value not only in the field of comparative legal theories but also to the establishment of the socialist rule of law state in Vietnam under the current market economy and international integration reality.

2. Introduction to Compensation in Labor

2.1 Definition of Compensation in Labor

In labor law, the issue of compensation arises when the rights and interests of the parties in a labor relationship are violated. During the exercise of their rights and obligations, employees may cause damage to their employers, or employees may violate agreements in their labor contracts, causing damage to their employers. Therefore, compensation can be considered an

effective legal means to protect the legitimate rights and interests of the parties in a labor relationship, as well as to protect the labor relationship itself.

Thus, compensation in labor can be understood as a type of legal liability arising when one party in a labor relationship violates its obligations and causes damage to the other party, aiming to restore property, compensate for losses, and protect the mental and physical well-being of the injured party¹.

2.2 Differences in the compensation philosophy between Common Law and the law of socialist countries

In light of the theory and practice of the system of labor compensation in Vietnam, it is submitted that the system has been largely affected by the socialist theory of law, which places great emphasis on the role of humanitarian factors and social risk allocation. However, in order to have a deeper understanding of the nature and efficiency of the system of labor compensation, it is necessary that it be compared with other legal systems, such as the common law system in the United States, in which the philosophy of compensation is based on the concept of individual responsibility, rectifying justice, and deterrence. The difference in the ideological foundations of the two systems is submitted as an important factor in understanding the nature of each system in balancing legal fairness, efficiency, and welfare.

In terms of its foundation and structure, the common law system can be said to rest on three main pillars, namely individuality – fault – deterrence². The basic philosophy behind this system is "corrective justice," by which each person must be held "materially responsible" in proportion to harm caused by him or her. The vast majority of common law civil law and labor law is based on "fault" as a standard for determining responsibility, with "strict liability" being limited to specific areas such as hazardous products, transportation, etc. One of the interesting aspects of this system is that "punitive damages" are available, by which courts can award compensation that exceeds actual harm caused by a party to deter reprehensible behavior³. On the other hand, socialist countries are based on a foundation of thought in the legal arena that involves the socialization of risks and the administrative approach to compensation⁴. This philosophy emphasizes the role of the State in preventing, benefiting from, and distributing social risks through insurance institutions, rather than allowing individuals to bear the entire loss. Scholar Richard Abel in his book *A Socialist Approach to Risk*⁵ has summarized the philosophy

as follows: socialist countries consider risk management and compensation as part of a collective social policy, aiming to share accident costs among the community instead of pursuing purely individual financial liability.

Regarding workers' compensation, in common law systems, particularly in the United States, workers' compensation is governed by each state's Workers' Compensation scheme⁶. Accordingly, injured workers will be reimbursed for medical expenses, income compensation, and other benefits without having to prove employer fault; in return, they cannot sue their employers under the Labor Compensation Law, except for a few narrow exceptions such as intentional infliction of injury. The philosophy behind this mechanism is to provide timely, certain, and limited compensation for workers, as well as for employers, in terms of avoiding lengthy litigation and uncertain costs. On the other hand, in countries with a socialist legal system, such as China, the mechanism for compensating workers for labor accidents is much more socialized and centralized. Under the Regulations on Work-Related Injury Insurance 2010, the government social insurance authority bears the total responsibility for organizing, paying, and supervising the insurance, as well as the scope, administrative methods, and specific rates of benefits. This is a mandatory, no-fault insurance system, as in the US, but it is carried out as a governmental policy rather than as a result of any insurance contract. In essence, it seems that both countries are attempting to achieve the common goal of removing workers' compensation from the civil litigation system. However, while in socialist countries this mechanism is carried out as part of a centralized social insurance system, in connection with the role of the state in regulation, in the US it is decentralized, as it combines elements of state policy and the insurance market.

As far as the scope and types of damages that are compensable, the common law system allows for a variety of compensations, including compensatory damages as well as punitive damages. In addition to remedying material and moral losses, common law courts may award punitive damages when the violation demonstrates a disregard for the rights and safety of others⁷. Conversely, countries belonging to or influenced by socialist systems often limit the element of punishment, focusing on compensation for actual losses. In Vietnam, the 2015 Civil Code stipulates that compensation for non-contractual damages is primarily based on actual material losses and moral damages within legally defined limits, while also regulating liability for highly dangerous sources in a way that is close to strict liability, aiming to protect victims but still within reasonable limits⁸. Meanwhile, the Chinese Civil Code 2020, in its section on "Tort Liability," has expanded the scope of damage calculation by allowing courts to consider even illicit profits obtained by the infringing party – a step toward strengthening deterrence within the civil framework, although it has not yet reached the level of punitive compensation in common law⁹.

¹ Hanoi Law University. *Labor Law Textbook I*. Hanoi, People's Police Publisher, 2022.

² Kenneth S. Abraham & Lance Liebman. *Private Insurance, Social Insurance and Tort Reform: Toward a New Vision of Compensation for Illness and Injury*. *Columbia Law Review*. 1993; 93(1):75-118. <https://doi.org/10.2307/1123103>

³ *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996).

⁴ Andreas Bergh, Christian Bjørnskov & Lud'ek Kouba. The growth consequences of socialism. *Journal of Comparative Economics*. 2025; 52(2):609-626. <https://doi.org/10.1016/j.jce.2025.04.003>

⁵ Abel RL. *A Socialist Approach to Risk*. *Maryland Law Review*. 1982; 41(4):695-754.

⁶ Guyton GP. *A Brief History of Workers' Compensation*. *Iowa Orthopaedic Journal*. 1999; 19:106-110.

⁷ See note 5.

⁸ Article 584 of the Civil Code of Vietnam 2015.

⁹ Ulrike Gluck. *Overview on Key Issues of the Tort Liability Part of China's First Civil Code*. *CMS Law*; 2020 Aug 13 [cited 2025 Sep 22]. Retrieved from:

Overall, common law countries maintain their backbone of individual responsibility and deterrence, allowing for a broad scope of compensation, including punitive compensation, but still limited by constitutional principles of proportion and equity. Meanwhile, socialist or socialist-influenced countries prioritize social stability, predictability, and collective risk allocation through mandatory social insurance and rate-based compensation mechanisms. Therefore, they make compensation on the basis of actual damage, impose fewer punitive damages, and bureaucratize damage assessment more. This is because there are two underlying legal philosophies, namely, the philosophy underlying common law, which stresses individualistic notions of justice and responsibility, and the philosophy underlying the socialist system, which stresses social equity and welfare.

3. Compensation in labor regulations of the USA

The provision on compensation for damages are one of the important provisions in the legal system, which is closely related to the general principles of fairness and responsibility in social relations in general and in the sphere of labor in particular. In labor relations, the compensation provision is not only related to the compensation of the victim's losses, but also plays an important role in ensuring labor discipline and order and in the balanced relationship between employees and employers. However, there are certain gaps and limitations in the Vietnamese legal system on the provision on compensation for damages in labor relations. Therefore, it is important to study and compare it with the labor law of the United States, which is a common law country with a highly developed and transparent compensation mechanism. This comparison will not only facilitate a deeper understanding of the differences in the philosophy of law and the approaches to protecting the rights of the parties involved in labor relations, but will also offer valuable experience to improve Vietnamese law with respect to fairness, effectiveness, and international integration.

3.1 Compensation in cases an employee causes damage to the employer's property

In the United States, there is no general federal labor law provision similar to "material liability" that compels employees to compensate employers within a fixed framework. Instead, this issue is primarily governed by individual state contract and civil liability laws, as well as private agreements between the two parties.

Firstly, the majority of workers in the US work on an "at-will" basis, meaning employers have the right to fire employees for any legal reason or no reason at all, and similarly, employees can quit at any time.¹⁰ Therefore, if an employee causes damage, the employer can usually impose internal disciplinary measures or simply terminate the employment contract with that employee, instead of relying

<https://cms.law/en/chn/publication/overview-on-key-issues-of-the-tort-liability-part-of-china-s-first-civil-code>

¹⁰ Muhl CJ. The employment-at-will doctrine: Three major exceptions. Monthly Labor Review. 2001. See more: §2922 California Labor Code and the Department of Labor. Wages and Hours Frequently Asked Questions. <https://dol.ny.gov/wages-and-hours-frequently-asked-questions>

on the employee for compensation. This is different from Vietnam, where employers find it difficult to unilaterally dismiss employees without legal grounds, so there must be a mechanism to require employees to compensate.

Secondly, although there are no mandatory labor laws, employers in the US can still sue employees for damages in certain cases, based on general law. For example, if an employee intentionally or excessively negligently causes serious damage, the employer can sue for damages as they would sue an individual for property damage.¹¹ When an employee's conduct exceeds the scope of ordinary negligence, a lawsuit for damages is often unsuccessful, so the employer will handle the matter through internal disciplinary action or dismissal rather than seeking compensation through the courts. This contradicts Vietnamese law, which stipulates that cases of employees causing property damage to employers are governed by provisions on material liability. Specifically, Article 129 of the Labor Code 2019 states: "*Employees who damage tools, equipment, or commit other acts causing damage to the employer's property must compensate according to the labor regulations or legal provisions*".

Thirdly, in Vietnam, the law allows for a maximum deduction of 30% of salary for gradual compensation¹² in contrast to the US, where the Fair Labor Standards Act (FLSA) and state laws have strict regulations regarding wage deductions¹³. In the US, employers cannot arbitrarily deduct wages from employees for compensation if the deductions cause the net wage to fall below the federal or state minimum wage. Many states also require written consent from the employee for any deductions that are not related to taxes or insurance. Therefore, if an employer wants compensation from an employee, it must rely on a private agreement, or through a court ruling if litigation occurs.¹⁴

In short, the American system lacks internal administrative mechanisms to compel employees to compensate for damages, unlike Vietnamese law. Flexibility in contract termination is the primary "weapon" of American employers which they can dismiss employees to avoid legal risk, instead of keeping them to recover damages.

3.2 Compensation for workers who suffer work-related accidents affecting their life or health

The United States has a very different system for dealing with workplace accidents: Workers' Compensation. This is a state-level legal system (each state has its own laws, but the general principles are quite similar) that originated in the early 20th century, with the following main characteristics:

¹¹ Vojo Belovski. Damage Compensation: Employee's Responsibility of the Damage and Employer's Responsibility. Balkan Social Science Review. 2014; Vol. 4: 129-157.

<https://js.ugd.edu.mk/index.php/BSSR/article/view/948>

¹² Article 102, Labor Code of Vietnam 2019.

¹³ Handy Reference Guide to the Fair Labor Standards Act. Retrieved from:

<https://www.dol.gov/agencies/whd/compliance-assistance/handy-reference-guide-flsa>

¹⁴ Wage Notice Requirements by State. Wrapbook; 2026 Jan 01 [Cited 2026 Mar 18]. Retrieved from: <https://www.wrapbook.com/blog/wage-notice-requirements-by-state>

Firstly, it follows the mandatory and "no-fault" doctrine. Most states require all employers to purchase Workers' Compensation insurance for their employees or to self-insure according to state standards. When an employee suffers an occupational injury or disease as a result of their work, Workers' Compensation will pay fixed benefits regardless of who is at fault. Employees do not need to prove the employer's fault to receive compensation, and conversely, even if an employee negligently causes an accident of their own making, they are still covered (except in limited cases such as intentional self-harm or drug/alcohol use).¹⁵ This regulation is quite similar to that in Vietnamese law, where employees are entitled to compensation even if they are not at fault.

Secondly, unlike Vietnam, where workers' compensation is paid in a sum equivalent to several months' salary, the US Workers' Compensation system primarily includes: full reimbursement of medical expenses related to injuries; temporary wage subsidies during the employee's time off work for treatment (typically around 2/3 of their salary, with a maximum limit); disability benefits if there is permanent disability (calculated based on the disability rating according to state guidelines); and death benefits for dependents if the employee dies as a result of a work-related accident¹⁶. These payments are based on legally mandated rates in each state, not on arbitrary negotiation. For example, in California, Workers' Compensation guarantees five basic benefits: medical expenses, temporary disability benefits, permanent disability benefits, retraining benefits (if unable to return to their previous job), and death benefits for the family¹⁷. Permanent disability benefits are calculated based on a formula that combines the percentage of disability, age, type of work, etc., rather than being fixed at a certain number of months' salary as in Vietnamese law.

Thirdly, the law in the US also includes exclusive remedy principle. The key point is that, under the law of most states, once an employer has participated in Workers' Compensation, this becomes the exclusive avenue for compensation for workplace accidents. This means that employees are generally not allowed to sue their employer for additional compensation beyond the scope of Workers' Compensation. The employer is solely responsible for the workplace accident, and in return, the employee is prohibited from suing the employer for those injuries¹⁸. This rule is called the "exclusive remedy doctrine," which aims to protect employers from civil lawsuits seeking compensation. Only in a few narrow exceptions can employees sue outside of Workers' Compensation – for example, if the employer intentionally inflicts injury on the employee, or if the employer fails to purchase Workers' Compensation insurance as required by law. In such cases,

¹⁵ Winkler KE. The Effect of No-Fault Workers' Compensation on Occupational Accident Rates. SSRN Electronic Journal, 2014. <http://dx.doi.org/10.2139/ssrn.2747016>

¹⁶ Workers' Compensation Committee. Introduction to the Workers' Compensation Law. <https://www.wcb.ny.gov/content/main/Workers/what-is-workers-compensation.jsp>

¹⁷ Insurance of California. Workers' Compensation. <https://www.insurance.ca.gov/01-consumers/105-type/95-guides/09-comm/WorkersCompensation.cfm>

¹⁸ Ibid.

the employee can sue as a regular civil accident and the court will consider compensation, but these cases are quite rare overall.

Lastly, on the compensation percentage, Workers' compensation in the US is often less than the compensation under Vietnamese law when the employer is at fault. For example, a US worker who becomes 100% incapacitated will receive weekly benefits (usually 2/3 of their salary) for a long period or for life depending on state law¹⁹, but the total amount in current value may be much lower than the 30 months' salary paid at once as stipulated in Vietnam. Nevertheless, American workers are guaranteed compensation even if they are at fault, whereas in Vietnam, if a worker causes an accident "entirely due to their own fault," they only receive 40% of the compensation and social insurance benefits. Overall, Workers' Compensation is a compromise: workers relinquish their right to sue for compensation outside of the system, but are guaranteed prompt and secure benefits under a non-disputable system regarding fault.

In summary, the US Workers' Compensation system is based on mandatory social insurance and the principle of non-fault, creating a limit on employer liability. Meanwhile, Vietnamese law still views workplace accidents from the perspective of employer-employee liability where the employer at fault must compensate the employee significantly. This difference reflects two philosophies: the US favors pre-settlement mechanisms through insurance and limits litigation, while Vietnam emphasizes the direct responsibility of the employer to their employees.

3.3 Compensation for wrongful/unlawful contract termination

Firstly, in Vietnam, employers are only allowed to terminate employees in legally mandated cases or upon the expiration of the employment contract; otherwise, it is considered illegal and requires compensation. Conversely, in the US, the default principle is "at-will" employment relationships, meaning employers are not required to have a "justifiable reason" for dismissal, as long as that reason does not violate the law. Most employees work without fixed-term employment contracts. This means that employers can generally dismiss employees without paying any compensation or following lengthy notice procedures, except in certain exceptional cases. Federal law does not mandate severance pay – the payment of severance pay is entirely dependent on the contract or company policy.²⁰ Secondly, due to the at-will rule, an employee whose employment contract is terminated in the U.S. can only sue if the termination was unlawful – typically in violation of laws protecting employees from discrimination or retaliation²¹. In other words, unlawful termination of employment in the US primarily implies unilateral termination of employment for illegal reasons, for example:

¹⁹ The Average Workers' Comp Payout Based on Cause & Injury Type in 2025. Ortwerth Law; 2025 May 14 [Cited 2025 Sep 22]. Retrieved from: <https://www.gatewayinjurylaw.com/blog/average-workers-comp-payout/>

²⁰ US Department of Labor. Severance Pay. <https://www.dol.gov/general/topic/wages/severancepay>

²¹ US Department of Labor. Wrongful Termination. <https://www.usa.gov/wrongful-termination>

termination due to racial, gender, or age discrimination; termination in retaliation for employee complaints of misconduct (whistleblowing); ... The only exception to the universal "just cause" requirement is Montana, where state law requires employers, after the probationary period, to have a just cause to unilaterally terminate employment, and employees terminated without cause have the right to compensation. However, Montana law also limits compensation – usually only including lost wages for a certain period, without a fixed penalty such as two months' salary²². This contrasts with Vietnam, where unilaterally terminating an employment contract "without justifiable reason" is inherently illegal, and the employee is automatically entitled to compensation.

Thirdly, in Vietnam, assessing whether a unilateral termination of an employment contract is unlawful is primarily based on whether there was discriminatory intent, but rather on whether the employer can demonstrate a legitimate reason and whether the procedure was followed correctly. In the US, however, since employers do not need to provide a reason, the burden of proof usually shifts to the employee in which they must prove that their employment was unilaterally terminated for a specific illegal reason.

Lastly, there are also many differences in the remedies for unlawful unilateral termination/dismissal. The first remedy is reinstatement. U.S. law allows courts or agencies to compel employers to reinstate employees, but in practice, this measure is rarely applied. Statistically, most disputes are resolved through monetary compensation rather than forcing both parties to return to a broken employment relationship.²³ Only in certain cases (for example, when the court clearly finds that the employee was dismissed for discriminatory reasons, and the employee also wishes to return) is an order to reinstate the employee, but this is still uncommon. The second method is back pay for the time from the moment of the dismissal to the hearing²⁴. Additionally, the court may order front pay if the employee is not reinstated – that is, an estimated amount representing the income the employee would have earned in the future if they had not been laid off.²⁵ Severance pay is not mandatory, but if there is a general agreement, the court may consider it. The third difference is that employees in the US may receive compensatory damages for emotional distress if they can prove that they suffer from psychology harm from the wrongful dismissal²⁶. In Vietnam, labor law

does not address this aspect of compensation; Vietnamese employees who wish to claim compensation for emotional distress usually have to file a lawsuit under separate civil law, and it is very difficult to obtain such claims within the context of labor relations. And lastly, in the US system exists a mechanism called punitive damage. If the employer's conduct is particularly serious or malicious (for example, intentionally terminating an employment contract in a discriminatory manner, even knowing it is illegal), a US court may apply punitive damages to punish and deter the employer, with the amount potentially being quite large depending on the severity of the violation.²⁷ The Civil Rights Act of 199 sets a ceiling on the total compensation plus penalties in discrimination cases, depending on the size of the company, for example, a maximum of \$300,000 for companies with more than 500 employees. This is a form of legal liability limitation – similar to Vietnam's limit of 3 months' salary for minor damages, but different in nature (this limit protects employers from excessively high penalties).

Moreover, due to concerns about the risks of large compensation claims, American employers often offer severance packages to employees upon termination, with the condition that the employee signs a severance agreement. This agreement may include a monetary payment in exchange for the employee's commitment not to sue or withdraw any future claims.²⁸ These amounts are entirely negotiable and not stipulated by law like the fixed two months' salary in Vietnam.

In general, Vietnamese law strongly protects workers against arbitrary termination of employment contracts. The penalties of reinstatement and compensation for various expenses serve as a deterrent, ensuring that an employer fires or dismisses an employee only when there are justifiable reasons and in accordance with the law. The labor laws in the US are somehow fragmented, as employees need to look for the protection against arbitrary dismissal in the contracts or in the laws, as there is no single Labor Code, as in the case of Vietnam.

3.4 Evaluation of the compensation in the US and Vietnamese labor law

In summary, the basic difference between the two legal systems is as follows: Vietnam has its own legal regulations regarding the compensation issue in labor relations between the two sides with great detail, and the tendency is to protect the workers, while the American system relies heavily on the concept of freedom of contract and insurance with limitations on employer liability. Conversely, in the US, when employers violate labor protection laws, the penalties can be very severe (compensation plus punishment, with no specific ceiling in some cases, except as stipulated by law)

²² Fabiano MD. The Meaning of Just Cause for Termination When an Employer Alleges Misconduct and the Employee Denies it Alleges Misconduct and the Employee Denies it. *Hastings Law Journal*. 1993; 44(2):399-420. https://repository.uclawsf.edu/hastings_law_journal/vol44/iss2/4

²³ Chapter 11 – Remedies of Management Directive 110 of the US Equal Employment Opportunity Commission. <https://www.eeoc.gov/federal-sector/management-directive/chapter-11-remedies>

²⁴ US Department of Labor. Backpay. <https://www.dol.gov/general/topic/wages/backpay>

²⁵ US Equal Employment Opportunity Commission. Front Pay. <https://www.eeoc.gov/federal-sector/front-pay>. See more: Pollard v. E. I. du Pont de Nemours & Co. (2001)

²⁶ Chapter VII, Civil Rights Act of 1964 of the United States of America. See more: Molien v. Kaiser Foundation

Hospital (1980) and Cummings v. Premier Rehab Keller, P.L.L.C (2022).

²⁷ §3294 California Civil Code and Manual of Model Civil Jury Instructions on Punitive Damages. <https://www.ce9.uscourts.gov/jury-instructions/node/111>

²⁸ US Equal Employment Opportunity Commission. Q&A Understanding Waivers of Discrimination Claims in Employee Severance Agreements. <https://www.eeoc.gov/laws/guidance/qa-understanding-waivers-discrimination-claims-employee-severance-agreements>

and have a strong deterrent effect. Therefore, US employers tend to comply with laws on discrimination and workplace safety to avoid costly lawsuits, while in Vietnam, employers must adhere to the procedures and grounds for dismissal to avoid liability for compensation under the Labor Code. Despite their differences, both systems aim to balance the interests of employers and employees: Vietnam leans towards protecting vulnerable groups through specific labor laws, while the US emphasizes the flexibility of the labor market but still has mechanisms to ensure that employees' basic rights are not violated.

Although Vietnamese labor law has established a humane and socially stable compensation mechanism, compared to US law – a representative of the common law system – there are still many gaps in both legislative technique and enforcement effectiveness. Firstly, Vietnamese law lacks transparency and predictability in determining the extent of damage and compensation, while in the US, the Workers' Compensation system clearly defines the method of calculating losses, the level of benefits, and a unified processing procedure at the state level. Vietnam currently lacks a standardized quantitative table for health or income loss, leading to significant differences in compensation between similar cases. Moreover, the compensation system in Vietnam has yet to clearly differentiate between civil liability and social insurance liability, causing confusion over the overlap of compensation and insurance payments by the employer. Meanwhile, in the United States, all payment schemes are coordinated uniformly through state labor insurance funds, ensuring the financial efficiency and stability of the system. Thirdly, the "no-fault" and "exclusive remedy" principle in the US allows for prompt compensation without the need to determine fault, whereas in Vietnam, the determination of fault is still necessary before compensation, causing the lengthy and complex process that may easily compromise the interests of the workers. Furthermore, the deterrent effect in the Vietnamese compensation system is not strong, as the penalties against the employer in the event of the violation of occupational safety regulations are administrative in nature, as compared to the US, where punitive compensation may be granted in extremely severe circumstances, thus promoting corporate compliance.

4. Recommendations for Vietnam

If we compare US labor law, which is an exemplary model of common law, with Vietnamese law based on the socialist tradition, it is possible to see some essential differences. These differences could be used as an example for Vietnam to improve its labor compensation system with an aim towards an equitable, efficient, and interconnected system.

Firstly, it should be noted that there is a need to improve the transparency of the compensation system. One of the most significant advantages of common law is that there is clarity in the principles of quantifying damages and resolving cases. Vietnam could draw an example from this and create a special settlement chart based on the US Workers' Compensation system. In addition, there is a need to publicize how damages are calculated and how fault is assessed so that businesses and workers can be informed of their rights and obligations.

Secondly, the distinction between administrative insurance mechanisms and civil compensation mechanisms should be clearer. It should be noted that the Vietnamese system is a

combination of the two, namely social insurance and employer compensation. It should be noted that this is another reason that causes delay in the process. It may be worth considering the US system, along with the "exclusive remedy" system in the context of work accidents that are completely insured. In this case, the worker benefits from the prompt receipt of compensation from the social insurance system, while the employer is not exposed to the risk of litigation, though still obliged to pay the insurance premium at an appropriate rate.

Thirdly, the principle of "no fault" should be applied in a larger scope, but within reasonable limits. It should be noted that in Vietnam, there already exists a mechanism for compensating for work-related accidents without the need to determine the fault in some cases. However, it should be improved in the following way: the scope of the "no fault" exemptions needs to be clearly defined in order to avoid possible disputes in the future. The US model of "no fault" clearly shows that when the process of determining the fault becomes simpler, the compensation payment also becomes quicker and more stable, thus meeting the requirement of having a strong social welfare system in Vietnam.

Fourthly, it is also essential to enhance the role of the deterrent factor and individual liability for compensation, especially for serious violations by employers. While Vietnam should not adopt the punitive compensation system of the US, it could consider introducing supplementary financial sanctions for employers' violations of labor safety laws, such as "compensatory penalties" for employers' violations of labor safety laws or for their failure or evasion of compensation obligations.

Overall, the experience of common law systems in the past has demonstrated that an effective compensation mechanism must be balanced in terms of transparency, flexibility, and social protection. Vietnam may follow the spirit of the principle of individual responsibility, quantifiable mechanisms, and simple procedures as in the United States, but also maintain the intrinsic humanistic values and social welfare approach in the existing legal systems. This would be perfect in the development of the legal framework for compensation for damages in labor, ensuring justice for laborers, and providing stability in the legal environment in line with the international integration trend.

5. Conclusion

The compensation mechanism of labor law does not only reflect legal instruments, but also encompasses the philosophy of social governance of each country. In common law, as practiced in the United States, material liability and deterrence are considered key elements of justice, and hence, flexible and quantifiably clear compensation mechanisms, especially through private insurance, have been developed. In Vietnam, as a socialist country, the core element of labor law is the protection of workers and allocation of collective risks through social insurance. This also indicates that Vietnam has to shift towards a mechanism that integrates both legal traditions, inheriting the spirit of transparency and quantifiably clear compensation mechanisms from common law and simultaneously retaining the humanistic values of its existing legal system. The improvement of Vietnam's labor compensation law in this regard not only plays an important role in enhancing the effectiveness of law enforcement and protecting the interests of all parties involved in labor

relations, but also represents Vietnam's determination to establish a rule of law state and enter the international legal system.

6. References

1. Labor Code of Vietnam, 2019.
2. Fair Labor Standards Act.
3. Law on Occupational Safety & Hygiene of Vietnam, 2015.
4. Nguyen HC, Nguyen VB. Scientific Commentary on the Labor Code 2019. Hanoi, Judicial Publisher, 2021.
5. Tran TTL, Do TD. Commentary on the new points of Labor Code 219. Hanoi, Labor Publisher, 2021.
6. Hanoi Law University. Labor Law Textbook. Hanoi, People's Police Publisher, 2022.
7. Andre Janssen, Jia Wang. Punitive damages under the new Chinese Civil Code - a critical and comparative analysis. *Asia Pacific Law Review*. 2021; 29(2):346-365. Doi: <https://doi.org/10.1080/10192557.2022.2033087>
8. Andreas Bergh, Christian Bjørnskov, Luděk Kouba. The growth consequences of socialism. *Journal of Comparative Economics*. 2025; 52(2):609-626. Doi: <https://doi.org/10.1016/j.jce.2025.04.003>
9. Wickert GL. Workers' Compensation and the Intentional Act Exception to the Exclusive Remedy Rule, Jan 30, 2024 [Cited 2025 Oct 01]. Retrieved from: <https://www.mwl-law.com/workers-compensation-and-the-intentional-act-exception-to-the-exclusive-remedy-rule/>
10. Winkler KE. The Effect of No-Fault Workers' Compensation on Occupational Accident Rates. *SSRN Electronic Journal*, 2014. Doi: <http://dx.doi.org/10.2139/ssrn.2747016>
11. Kenneth S Abraham, Lance Liebman. Private Insurance, Social Insurance and Tort Reform: Toward a New Vision of Compensation for Illness and Injury. *Columbia Law Review*. 1993; 93(1):75-118. Doi: <https://doi.org/10.2307/1123103>
12. Boden LI. Workers' Compensation in the United States: High Costs, Low Benefits. *Annual Review of Public Health*. 1995; 16(1):189-218. Doi: 10.1146/annurev.pu.16.050195.001201
13. Fabiano MD. The Meaning of Just Cause for Termination when an Employer Alleges Misconduct and the Employee Denies it. *Hastings Law Journal*. 1993; 44(2):399-420. https://repository.uclawsf.edu/hastings_law_journal/vol44/iss2/4
14. Vojo Belovski. Damage Compensation: Employee's Responsibility of the Damage and Employer's Responsibility. *Balkan Social Science Review*. 2014; 4:129-157. <https://js.ugd.edu.mk/index.php/BSSR/article/view/948>
15. Dung DT. Compensation in the labor framework of Vietnam. LLM Dissertation. Hanoi, Hanoi National University, 2020.
16. Phuong NTL. Compensation for damages according to labor law of Vietnam. LLM Dissertation. Hanoi, Hanoi National University, 2015.