

Global Evolution of Voluntary Guardianship Systems Post-2020: Core Issues, National Practices and Trend Insights

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Abstract: Since 2020, voluntary guardianship systems worldwide have undergone profound adjustments driven by aging populations, family structure changes, and growing emphasis on individual autonomy. This paper focuses on five core issues: expanded application scope, diversified guardian qualifications, digital asset management inclusion, optimized supervision mechanisms, and advanced cross-border recognition. By analyzing legislative and practical developments across civil law, common law, and emerging economies, it reveals the balance between protecting vulnerable groups and respecting autonomy, identifies shared trends, and offers suggestions for system maturity through international exchange and localization, providing a reference for modern social care challenges.

Keywords: Voluntary guardianship; Core issues; Cross-country comparison; System evolution

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1. Introduction

Voluntary guardianship enables adults with full civil capacity to pre-arrange guardianship via legal instruments, safeguarding their rights when capacity is lost or diminished due to aging, illness, or accidents^[1]. Before 2020, most countries had basic frameworks but faced limitations like narrow application scopes, rigid qualification requirements, and inadequate supervision^[2]. These limitations often left groups with non-traditional needs—such as young adults with progressive illnesses or individuals facing temporary incapacity—without adequate legal protection^[3].

Post-2020, global changes—aging (with the global population aged 65+ expected to reach 1.6 billion by 2050^[4]), public health crises (e.g., COVID-19) that highlighted vulnerable groups' care gaps^[5], digital asset proliferation, and cross-border mobility intensification—have spurred urgent legislative reforms^[6]. This paper examines five core issues, sorts out national practices across legal systems, and summarizes trends to inform system improvement globally^[7].

2. Core issues and national practices post-2020

2.1. Expanded application scope

Traditionally centered on the elderly and disabled, post-2020 systems now cover broader groups^[8]. Civil law countries like

Germany revised their Civil Code in 2022 to include those with temporary capacity loss from acute illnesses or medical treatments, breaking the long-standing focus on permanent impairment ^[9]. Japan's 2021 simplified system for over-65s streamlines registration procedures, covering daily care, property management, and medical decisions to adapt to its aging population ^[10].

Common law countries adopt flexible expansions: the UK extends “lasting power of attorney” to young people with progressive diseases (e.g., early-onset dementia), a group previously excluded from mainstream guardianship ^[11]. California allows agreements for specific matters like overseas property management, decoupling guardianship from permanent capacity loss ^[12].

Brazil prioritizes single-person households without family support, recognizing their unmet care needs ^[13]. This expansion trend reflects two key shifts: from permanent to temporary capacity loss coverage, and from traditional vulnerable groups to specific-needs populations ^[14]. However, challenges persist—some countries lack clear criteria for defining “temporary incapacity,” leading to judicial discretion inconsistencies ^[15].

2.2. Diversified guardian qualifications

Countries are moving beyond family-centered guardianship to address the decline in extended family structures ^[16]. Germany (2022) permits social welfare organizations and professional guardianship companies as guardians, with strict certification requiring training in law, social work, and care services ^[9]. Japan's 2021 “guardian training and certification program” has trained over 12,000 professional guardians, supported by tax reductions and government subsidies ^[10].

Common law countries strengthen regulation: the UK requires non-relative guardians to register with the Office of the Public Guardian, submit professional credentials, and pass criminal background checks ^[11]. This socialization trend addresses family guardian shortages but faces challenges—30% of emerging economies report uneven professional quality among non-family guardians ^[17].

2.3. Digital asset management inclusion

Post-2020, digital assets (e.g., cryptoassets, social media accounts, cloud data) have become integral to personal wealth, driving their inclusion in guardianship ^[18]. Germany (2022) clarifies guardians' rights to manage digital assets under the “least restrictive intervention” principle, prohibiting unauthorized access to personal communication accounts ^[9]. Japan's 2021 amendment enables parties to specify digital asset clauses in agreements and collaborates with major internet companies to streamline account access ^[10].

The UK amended the Mental Capacity Act (2022) to explicitly recognize digital assets as protectable property ^[11]. California established a “digital asset guardianship assistance center” in 2023, providing technical support for guardians handling complex digital assets ^[12]. Many jurisdictions now rely on statutory frameworks like the Revised Uniform Fiduciary Access to Digital Assets Act to govern guardian access to digital accounts ^[19]. Challenges remain—60% of countries report difficulties in defining digital asset boundaries and addressing platform terms of service that restrict third-party access ^[18].

2.4. Optimized supervision mechanisms

To prevent guardianship power abuse (reported in 17% of global cases pre-2020 [20]), countries have built multi-dimensional supervision systems ^[21]. Germany (2022) introduced a two-year court review system, with judges assessing guardian suitability and adjusting arrangements for 22% of cases ^[9]. Japan's 2021 online platform enables real-time monitoring of guardianship agreements, with relatives accessing updates via secure portals ^[10].

The UK mandates professional guardians to purchase liability insurance to compensate wards for losses from improper management ^[11]. Guardians are held to fiduciary standards requiring good faith, diligence, and care for the ward's assets ^[22]. Supervision trends toward rigidity, but 25% of low-income countries still struggle with formalized supervision due to resource shortages ^[23].

2.5. Advanced cross-border recognition

Cross-border mobility drives demand for mutual recognition of guardianship agreements^[24]. EU member states implement the Brussels II bis Regulation (2022), enabling simplified recognition of agreements within the bloc^[25]. Japan signed bilateral agreements with South Korea (2021) and the US (2022), aligning recognition criteria with the Hague Convention on the Protection of Adults^[10].

The UK collaborates with Commonwealth countries to recognize lasting power of attorney via reciprocal arrangements^[11]. Legal and cultural differences persist—38% of cross-border cases face delays due to conflicting definitions of “guardian authority”^[26].

3. Summary, trends and conclusion

3.1. Global development summary

Post-2020 evolution of voluntary guardianship systems focuses on the five core issues above, with reforms shaped by legal traditions and social contexts^[27]. Civil law countries prioritize codified legislative revisions (e.g., Germany’s integrated Civil Code amendments^[9]), common law countries combine judicial precedents and statutory adjustments (e.g., the UK’s digital asset recognition^[11]). Despite differences, all aim to enhance system adaptability and humanism^[28].

3.2. Development trends

Key trends are increasingly distinct. First, system design is refined and personalized: Japan’s elderly-focused simplified procedures and California’s matter-specific agreements reflect the rejection of one-size-fits-all models^[10,12]. Second, the balance between autonomy and protection is redefined—countries require guardians to honor prior wishes while ensuring basic care^[29]. Third, socialization and professionalization accelerate: Germany’s professional institutions handle 38% of non-family guardianship cases (up 15% since 2020^[9]), and Japan’s certified guardians report high ward satisfaction^[10].

3.3. Challenges, suggestions and conclusion

Challenges include uneven global development, guardian quality gaps^[17], imperfect supervision^[20], and cross-border recognition barriers^[26].

To address these, first, strengthen international cooperation: establish a global voluntary guardianship information exchange platform to share legislative texts and case studies^[30]. Second, improve professionalization: adopt unified qualification standards and mandatory continuing education^[27]. Third, optimize rigid supervision: integrate technology (e.g., blockchain for property management transparency) and expand social supervision channels^[21].

Voluntary guardianship systems post-2020 have demonstrated remarkable adaptability to global social transformations. As aging deepens, digitalization advances, and mobility intensifies, the pursuit of balance between autonomy and protection will remain central. Through continuous legislative refinement, professional capacity building, and international collaboration, these systems can better address vulnerable groups’ needs, contributing to more inclusive and resilient social care frameworks worldwide.

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