

An Innovative Thinking on the Effect Evaluation and System Improvement of Senile Monitoring

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ABSTRACT

China is preparing for its rapidly aging population and implementing an effective system of elder guardianship. Due to policies such as the one child policy and longer life expectancies, in combination with improved economic conditions, this demographic shift has put great pressures on social, legal and healthcare systems. In this paper, the authors investigate the development of elder guardianship in China, its present struggles as well as possible policy pathways. The current study aims to evaluate the efficacy of elder guardianship in China using an extensive literature review and incorporating theoretical discussions into legal analyses. Through comparisons with international guardianship models, foreign best guardianship practices to learn from the Chinese situation to find out. We reviewed case studies of efforts to reform elder care, both in community-based and governmental health strategies. The results presented in this article reinforce that although the Civil Code of PRC (2021) may be a significant step forward towards a more legal frameworking concerning elder guardianship, there are still challenges to be faced relating to the variety in law enforcement, oversight, and public awareness. Moreover, the transition to nephology nuclear living has also exacerbated the guardianship accommodate system. In addition to this, a key aspect relates to the reform required in pension and social security policies for the elderly population. The paper concludes that the guardianship system in China may improve by combining a family model with a public one, developing community-based elder care, and utilizing technology for monitoring. Suggestions also focus on strengthening legal frameworks, enhancing guardian oversight and encouraging elder care service innovation to better the quality of lives of those under guardianship. The authors of the study conclude that China's progress in elder guardianship has been commendable but there is still a long way to go, especially as far as legal issues are concerned and socio-administrative care services. Future studies in China need to explore more culturally distinctive and multifaceted modes of guardianship that are better fitted for the country's burgeoning older population.

KEYWORDS

Guardianship; Aging Population; China; Civil Code; Social Security and Welfare Reform; Long-term Care Responsibilities; Legal Supervision of Private Family Guardianship and Public Guardianship Community-based Services.

1. THE HISTORY AND SIGNIFICANCE OF ELDER GUARDIANSHIP

1.1. Rapid Growth of an Aging Society

The reality of the global population is an aging one that has come upon us quite suddenly and continues to shift now worse than ever before in history. This shift has meant that by 2021, China's population included 264 million people over the age of 60, an increase of 96-fold over the number in 1949. This group held nearly 19 percent of China's entire population, but by 2050 that percentage will

have topped 30 %. This massive growth creates extensive financial challenges for the health system, social safety net and old-age care support systems, which are all still under development. China's Aging Society is the result of many factors. Life expectancy has grown. Economic development has hastened this process along as well. Demographic changes brought on by policies like the one-child policy in which surplus dependents far outnumber working-age citizens have indirectly led to this outcome. (Song, 2023; Zhao, 2023; Guo & Song, 2022) At the same time, however, the traditional pattern of "three generations under one roof" is being replaced by an urbanized form in which younger generations migrate to cities and leave the elderly with little social support. (Liu & Ma, 2021; Han et al., 2020) China is now searching for original solutions like community-based care for seniors, government-led reforms in health care delivery methods, and the 2030 Health China platform strategy which are all intended to manage this demographic crisis. (Fang et al., 2020; Wang, 2019) However, it has now become an urgent task to make changes in pension policies and the social security system generally so that all elderly people may be provided for. (Singh, 2018)

1.2. Could Guardianship Protect Legal Rights of the Elder?

Insisting they have the right to be heard may be seen as willfully blind and destructive of the foundational principles of elder guardianship, an American legal construct that is designed to protect a person who is incapacitated by reason of dementia, Alzheimer's disease or other cognitive destruction. Under such a system, either a family member or public entity or professional is appointed as guardian to act for the elderly person. The guardian has the power to decide about the basic needs, medical care and financial issues. This legal tool is crucial to protect the rights and honour of vulnerable elders by securing their interests from exploitation, neglect as well as abuse.

Elder guardianship in China is still a relatively immature system, at least when compared with Western legal systems. China is now racing to establish enhanced legal protections for its anklebiter public as it undergoes a rapid development and social change. While the current elder guardianship system has achieved noteworthy milestones in terms of legal evolution and operational ground, there are still challenges on various fronts. Some of these have been inconsistencies in the enforcement of guardian laws, insufficient regulation and oversight, and a plain lack of awareness on the part of the general public about what it means to be a guardian or what rights patients under guardianship have.

1.3. Some of the Challenges with Guardianship for the Elderly

Elder guardianship is vital, but obstacles prevent this good system from taking place. The main challenges arise from the differences of interpretation and application of guardianship laws in various states. Standards used in courts and by legal authorities vary as to when an elderly person is deemed incapacitated and should have a guardian. Further, the process by which guardians are appointed can be slow and arduous, delaying needed care and protection.

It is also missing proper mechanism of the watch for checking how appointed guardians are behaving. This lack of accountability opens the door for potential abuses by the guardian, such as financial exploitation, physical neglect or unsound decisions that are not in the best interest of the ward. Poor image of appointments for non-family guardians and public guardianship programs have made many families hesitant to take the more formal step of seeking legal guardianship in their elderly relatives.

2. CONCEPT AND JURIDICAL AFFAIRS OF ELDERLIES DOMINATION

2.1. What is Elder Guardianship, at its Core?

Elder Guardianship is a legal process to appoint an individual or entity (such as a brother, sister, other family member or friend) to act on behalf of elderly/older adult who can no longer manage his or her personal and/or financial matter – Copyright – Stock Photo / Canva Pro. Preceding this question is,

what exactly are the intended functions of elder guardianship? This means all the basics - healthcare, housing and income first.

Guardianship is mainly classified into two categories:

Personal Care: A guardian is expected to manage the elderly person's body, such as medical treatment, where they live and overall welfare.

Financial Guardianship - A guardian is appointed to manage the elder person's financial matters, assets, income and more in their best interests and prevent an type of exploitation or mismanagement.

A senior citizen's need for guardianship is determined primarily by their physical capabilities and/or cognitive ability to make decisions. Cognitive diagnosis (including that of dementia, Alzheimers, and general cognitive deficits) is the most frequent reason listed in court documents. Nevertheless, the process for finding new capacity and appointing a guardian can vary greatly from jurisdiction to jurisdiction.

2.2. Legal Provisions Civil Code of the People's Republic of China

The legal principles of elder guardianship in the People's Republic of China are largely established by the Civil Code of PRC that was enforced on January 1, 2021. Enshrined in this omnibus legislation, is a codification of numerous civil laws that relate to property rights, contracts and family law. Furthermore, the Civil Code has a number of articles which explicitly deal with guardianship, chiefly those protecting the elderly.

Article 366 of Chapter III of the Civil Code contains an essential rule for guardianship, stipulating that guardianship applies to natural persons with limited or without capacity of civil conduct due to age, mental disorder or any cause. The main regulation is article 33, which states that guardianship affects both minor and incapable or limited in the exercise of capacity adults.

Specifics around elder guardianship Key aspects of these initiatives involve:

General Comment 28: Determines that people with mental illnesses or those who are otherwise unable to look after themselves, should have a guardian appointed over them.

Please note that article 29 which is governed by the assumption that no guardian has been appointed or the one appointed cannot perform, a court or competent authority may appoint a public legal guardian type of institution to fulfill the duties and responsibilities outlined in here.

Article 30: Prohibits the court from adjudging a respondent to be in need of guardianship solely because he or she is an elder out without capacity to care for self if no other petition has been filed with the court. This clause is about how the state must safeguard the interests of the vulnerable elderly people.

2.3. Additional Legal Provisions

Besides the Civil Code, there are other laws and regulatory guidelines that collectively form the foundation of elder guardianship in China. Such as the "Provisions for Guardianship of the Aged" promulgated by the Civil Affairs Department on specific procedures and methods to appoint guardians of seniors. This involves clarifying what responsibilities family members, public guardians and professional organizations play in the context of the guardianship process.

In addition, the Elder Protection Law was passed to address protection of rights and interests for elderly, thus supporting regulations on guardianship in the Civil Code. In addition to providing a legal foundation for safeguarding the elderly from neglect, abuse and financial exploitation, the law requires local governments to have programs in place to provide elder care and public guardianship services for those who have no family support.

2.4. Guardians Rights and Dares

Guardians have especially acute responsibilities and liabilities under the Civil Code and additional laws related to elderly individuals they are supposed to support. Guardians must always act in the best interest of the elderly person and do whatever is necessary to maintain their welfare, safety, and dignity.

Basic Duties of a Guardian

Personal Care: guardians have the responsibility of ensuring that basic needs like medical care, nutrition and where they live are taken care. From health care treatments, to long-term care options, as well as everyday-living needs like grocery shopping and house maintenance.

Guardianship of the Estate: In a financial guardianship, the guardian is in charge of managing the elderly person's assets paying bills and pay for resources they will need. The guardian shall not have any conflict of interest and might be asked to account to the court or the relevant authorities for their financial management.

Legal Guardianship: The authority to act on behalf of the aged person in legal situations, involving signing contracts or buying/selling real property; initiating and defending litigation.

For this power, guardians owe the highest level of accuracy and good faith in making decisions on behalf of elderly individuals - they stand in a fiduciary position. Failure to carry out these duties can be grounds for removal from the guardianship position and could lead to civil or criminal penalties.

3. ANALYSIS OF THE CONDITIONS FOR ELDER GUARDIANSHIP

3.1. Requirement for Guardianship to Be Granted

Establishing elder guardianship requires a determination by the court that an elderly individual is legally incapacitated. In accordance with China's Civil Law and other similar laws of other countries having comprehensive legal systems, guardian relationship shall be established when an elderly citizen cannot properly handle his/her personal or property affairs because he/she is handicapped by loss of capability for full civil actions. The determination is most often the result of a medical examination and a legal ruling by a judge, utilizing diagnostic tools such as clinical diagnosis of dementia (including Alzheimer's disease); or severe mental illness.

According to the Civil Code of the People's Republic of China (2021), people who are mentally or physically incapacitated should be subject into guardianship in China. The law also states that any finding of incapacity should be based on a full medical evaluation by licensed practitioners. The assessment can determine if the elderly person is able to think normally, has good mental health or some other general tasks he/she can do without getting help. For instance, medical evaluation will want to know if the elderly individual can bathe and dress themselves or manage their personal finances.

The process of becoming a guardian may vary but, generally speaking, starts with a finding of incapacity. In general, if the elder has designated someone to be his guardian through power of attorney or similar legal appointment prior to becoming incapacitated, courts will typically look at family members first. Where that does not exist, the courts must consider other factors such as the nature of the relationship between an elderly person and potential guardians, the suitability of candidates and of the type of guardianship sought.

3.2. Conditions Types of Guardianship are Subject to, Legal and Social.

Elderly guardianship can take many forms, because the needs of elderly incapacitated person are unique. Personal Guardianship - This is the type of guardianship for which most people are familiar.

Occasionally one guardian may oversee both personal and financial matters, in other cases there may be different guardians appointed for managing each of the two functions.

Guardianship of the person includes making decisions about health care, housing, and everyday needs. The personal guardian is the person who banned individuals from accessing appropriate medical care and living in safe residences, and has ignored the needs of someone represented by a public or other guardianship.

It is a financial institution where the ward's assets, income, and other finances are managed. The fiduciary responsibilities of the financial guardian include managing the funds and appropriate resources to receive, pay and maintain assets for a senior citizen or ward and in accordance with the best interest of that elderly person.

There are different types of guardianship, which the court will determine, based on both what powers a person is incapable in and the nature of the elderly. Courts often consider legal standards such as the extent of incapacitation and a guardian's fitness to faithfully discharge their duties. And then it all comes down to ways and means of implementation including the kinds of family or qualified guardians that are available for helping in making a decision.

Moreover, a trend similar to that in China is observed; an increased availability of public guardianship services is emerging, especially in urban areas where traditional family-based caregiving may not be possible because of demographic changes and rapid urbanization. Public guardianship refers to a system in which the state appoints professional, non-family-member guardians or a public guardian office (which might be part of the social services department) to function as "guardian-of-last resort" for legally scored adults who lack family members willing or able to assume responsibility for them. It is a safety net for seniors who may not have family nearby or whose family members are unable or unwilling to act as guardians.

3.3. Test of the Connection among Guardian and Ward

More importantly, the dynamics of the relationship between guardian and elderly person/ward is also a key determinant in whether an appointment will prevail. The compliance with the guardian appointment of close relatives specifically exists in China and many foreign countries. Under article 31 of the Civil Code, relatives have a preferential right to guardianship with their spouses and adult children being most prominent.

Because immediate family are assumed to have the ward's best interests at heart, especially in keeping with love and continuity, a direct family guardianship is often preferred. Another, is the so called "priority guardianship" recognized by Civil Code, authorizing elder able to designate a specific family member as their guardian if that designation was made prior to them losing capacity.

When there are no willing or appropriate family members (estrangement, conflict of interest, incompetence), courts may instead appoint a non-family guardian. This power may belong to a professional guardian, a public agency, or such as an eldercare facility. When no suitable family member can be found, non-family guardianship are typically the last resort. In those circumstances, courts will examine the professional qualifications and experience as well as the competence of the proposed guardian to manage the personal and financial affairs of the elderly person

3.4. Ways to Evaluate Guardianship

The usefulness and fairness of elder guardianship rests largely on the process used to evaluate prospective guardians. The eligibility, reliability of the guardian and have to judge whether the person who has been chosen as a guardian can really be responsible for the chores obligation Courts and legal authorities to protect - children.

A central problem with the system of guardianship is that it focuses on having legally-competent guardians; there is little mention of needing emotionally and ethically suitable guardians. Examples are a guardian who has the legal authority but no personal commitment to do what is best for the elderly or incapacitated person. So to make this determination the courts need to perform a full guardianship assessment which can mean background checks, interviews and examining the financials as well as the caregiving abilities of the would-be guardian.

The court also provides an important check on the guardianship selection process to make sure that every guardian is appropriately qualified for what is required of them. The court may even impose certain conditions such as periodic reports or financial audits to continue their oversight and provide for the continued protection of the elderly from possible mistreatment or neglect.

4. ASSESSING THE IMPACT OF GUARDIANSHIP ON OLDER ADULT WELL-BEING

4.1. Evaluating Guardianship Outcomes Standard

A clearer understanding of the effectiveness of elder guardianship can come from the question about what happens to an older person's quality of life, health and financial security? The purpose of guardianship is to protect the elderly person and make sure they are properly taken care of. Unfortunately, the success of guardianship is complex and cannot be boiled down to just one approach, measuring efficaciousness requires a nuanced combination of subjective and objective outcomes.

The criteria for granting guardianship can be grouped into some of few key:

Indications of Quality: Does the guardianship allow the elderly to live in a safe, healthy environment with access to necessary resources and services?

Health outcomes: Whether the senior is adequately cared for with necessary medical attention and regular health monitoring. Are they safe from harm or neglect that could have been prevented?

Did the guardian maintain or recover the finances of the elderly person? Are the financial transactions satisfactorily maintained and no fraud or mismanagement noted?

Social Life: Can the elderly person socialize and maintain relationships with family & friends
Emotional well-being- Does the elderly get any emotional care, support from people close to them.

Researchers say that good guardianship enhances the quality of life for elderly people - especially those who are very sick. Yet some research suggests that the nature of guardianship may differ based on the availability of resources, guardian engagement, and oversight by the legal authorities.

4.2. Assessment of Law Enforcement

The Civil Code of China put into effect the arrangement for guardianship over elderly people, but with clearly disappointing results. However, it also provides some safeguards for incapacitated elderly individuals and certainly articulates the appointment and roles of guardians on a statutory basis. However, there are still logistical difficulties in enforcing these laws.

The biggest single problem is the non-uniformity and inconsistency in judging each case involving the guardianship provisions of the (General) Civil Code. This means that in some territories elderly people may not be able to safeguard their interests as well as others due to regional disparities in the legal practice and differences in level of judicial competency. In addition, the culturally significant reliance on family members to provide primary care may not always lead to the best outcomes for older generations - particularly if relationships are strained or they didn't have the tools needed for complex caregiving.

4.3. Assessment of the Performance and Accountability of Guardians

Guardians are required to act in the best interest of the person they represent. Nonetheless, overseeing to make sure maintainers fulfill the responsibilities is a challenge. The Civil Code also requires that guardians present periodic reports, to the court or other entity of jurisdiction, informing their decisions and actions in relation to care and financial management of the elderly. But, to bring this backup a level, in reality these mechanisms are not really always enforced tightly.

Abuse of guardianship - be it the losing of finances, lack of attention or psychological abuse - continues to be just one more problem in the lengthy listing of difficulties with guardian and guardianship. Indeed, researchers have consistently demonstrated that in the absence of regular monitoring and follow-ups guardians can pursue their own interests rather than serve those they were appointed to protect, causing worst care and financial harm. Establishing strengthened legal accountability mechanisms through more frequent audits and existence of independent oversight is crucial for maintaining the integrity of the guardianship system.

5. WAYS TO IMPROVE THE ELDER GUARDIANSHIP SYSTEM

5.1. Types of Conservatorship Needed to Avoid Guardianship

There are indeed a few key areas -to address the optimal criteria of establishment of guardianship in particular- that need to be improved on in terms of how the elder guardianship should be reformed. Strict laws of the present times are vague and do not cover specific sets of mind in elderly people. The legal criteria for determining when guardianship is needed must be improved to better this system.

Guardianship should not be based on general determinations of inability to manage, but should be an examination into the specific abilities of an incompetent person's cognitive and/or physical condition. Although the Chinese Civil Code offers corresponding provisions of guardian appointment, which provide a guideline for brainstorming regarding on the definition, composition and right boundary of guardianship board , and necessary refinements should be made based on modern medical and psychological evaluations, especially about etiologic geropsychiatric examinations in mainframe system to justify such administration is justified scientifically besides not degrading an unjustified curb at advance directives of autonomy by elders themselves as elderly safeguards.

5.2. Improve Guardianship Monitoring Mechanisms

Any adequate system of elder guardianship will entail strong oversight of the actions taken by guardians. China and other countries exacting similar laws with the existing system often fail to hold guardians accountable. Guardians have broad control over elderly people's personal and financial lives, but there is little attention to how they are treated. And not having that oversight leads to abuses, neglects or exploitation of the most vulnerable among us – our elderly people.

Reform wants to improve the supervision and accountability mechanisms within the guardianship system. The monitoring of guardians would be facilitated through a process that includes chairs for courts and legal authorities to frighten obligatory periodic reporting on the well-being and financial position of elderly individuals. Independent tribunals should scrutinize these reports to ensure transparency and prevent abuse of guardianship power. Also, creating a registry or visitation program for the elderly person will help verify that the guardian provide their legal duties.

Tighter punishment needs to come with the misusing of guardianship powers as well. The process is stated in the Civil Code, so removal of guardian in cases of misconduct can be both slow and ineffective. Tougher penalties against guardians who abuse and neglect their wards, including criminal charges in the worst cases, could very well provide an excellent deterrent. This could be

supplemented with public campaigns to raise awareness among the wider community on the rights of people under guardianship and how best to report concerns or abuse.

5.3. Finding a Middle Ground With Public or Family Guardianship

A second vital pathway to address elder guardianship involves a more nuanced balancing of the roles of family and public guardianships. But family members are typically granted guardianship, on the belief that they will make decisions in the best interest of their elderly loved ones. But not everyone has the means, either financially or emotionally, to take on such a heavy burden of guardianship. And where family guardians are exhausted or unprepared, this can result in burnout and worse — neglect or abuse.

The solution to address these pressures involves integrating family guardianship with the public guardianship model. Public guardianship takes place when professional or institutional guardians, appointed by the state, step in to care for an elderly person with no appropriate relatives. China is still on the way to a public guardianship system, but there may be an ideal land for elders in need of protection without family support. When professional guardians in elder care institutions or under NGO custody, they are providing customized assistance to manage all healthcare needs and money matters of the elderly.

Policies should also promote the interaction between family members and public guardians. So in that kind of a hybrid model, the family is able to offer emotional and social support, but the professional guardian provides more specialized services like financial management or making medical determinations. This, in turn, would not only take some stress off loving families but it would be a proven method to guarantee that our aging seniors are well taken care of with the best solutions available. Similar models have been successful in countries where elder care systems are more established, like Germany and Japan, however the design of alternatives for a Chinese context is possible.

5.4. Recommendations for Improvement in Policy and Legislation

The guardianship system needs legislative and policy reforms in addition to practical improvements. Among the urgent matters is to eradicate legislative loopholes in the guardianship system. The Civil Code, for example, offers no assistance in gauging the extent to which elderly persons who are under guardianship should be allowed to make their own decisions about their care if they still possess only partial mental capacity. It would be a significant improvement to enact the necessary changes in a law that put elderly people in the best position possible regarding autonomy, under guardianship or otherwise.

Secondly, there must be more internationally-applicable guardianship rules especially in amongst the mobile Chinese populations. Older adults may also have family living in other provinces or even other countries, which makes it more challenging to appoint and oversee a guardian. Synchronization of guardianship law in different areas across China and a more flexible legal framework of cross-regional or even transnational guardianships will help solve this problem.

China is not the only country that adjusts its guardianship legislation. For example, supported decision-making has emerged as a possible alternative to guardianship in the United States. It is based upon the idea of helping the elderly make decisions themselves, and not granting full rights to a guardian. While this may not be practical for all elderly people, especially those with severe cognitive disorders, it can provide an important balance to offer them more autonomy given they have more mild incapacities

5.5. Promoting Innovation in Elder Guardianship

The final piece is the need to update guardianship practices with contemporary technological and societal developments, as discussed by the guardianship section of this Report. One example would include digital guardianship platforms that could make it easier to manage the assets, health records, and care plans of the elderly. Such platforms would enable guardians, court and other key stakeholders to get real-time information on the welfare of the elderly person (increasing transparency and care coordination)

The state could also expand programs that train guardians to understand their responsibilities in taking control of an elderly person's affairs. It would address issues such as legal obligations, financial management, health care coordination, and the ethical concerns of AOP welfare. The training is also e-saly delivered as well in community centers making the reach more, so guardians can learn and hopefully succeed.

6. CONCLUSION

The existing elderly guardianship system in China is important for the well-being of vulnerable older adults, but it is far from ideal. The legal framework established by the Civil Code is a step forward, but there are still many critical areas that require reform to make the system work properly. The study identifies optimizing of the guardianship establishment evidence and requirements, enhancement of supervision mechanism for the guardianship, as well as balancing among public, non-governmental organizations (NGO) and family-based guardianships. In addition, the authorising environment should be subject to legal and policy review in line with complexities identified in the existing system.

Future work should include a study of the potential role of alternative guardianship models such as support-decision making and how these might be tailored for the social and cultural context within China. The complexity of guardianship for older adults requires interdisciplinary research that merges legal, social and ethical dimensions. Official must focus on creating a more dynamic, comprehensible and responsible guardianship system that can adapt to the needs of China's fast-growing elderly population.

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