

# **Comparative Perspectives on Adult Guardianship**



# Comparative Perspectives on Adult Guardianship

Edited by  
A. Kimberley Dayton



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I dedicate this book to my son Colin Dayton Stacy.

Kim Dayton, Minneapolis, Minnesota  
November 2013





# Introduction

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Modern societies around the globe are confronting an increasing incidence of disability associated with an aging population, and growing acknowledgment of mental health issues, developmental disabilities, and the consequences of brain injuries. Adult guardianship is no longer merely a local concern. It has been suggested that more than 1% of the adult population 18 years and older in industrialized nations is under formal legal guardianship. In Germany, more than 1.2 million adults are under guardianship pursuant to the provisions of German Act 1896 ff (Civil Code) due to illness or disability. The number of persons in need of guardianship, and guardianship caseloads, can be expected to grow exponentially in the next few decades. This reality raises a number of questions: How can we address the needs of persons who need protection, while preserving their autonomy and personal dignity? How can adult guardianship systems accommodate these competing concerns?

In many nations, the United Nations Convention on Rights of Persons with Disabilities (2006) (the Convention) has served as a catalyst for guardianship reform. The 1st World Congress on Adult Guardianship in Yokohama, Japan in October 2010 showed us the importance of an international exchange of knowledge, experiences, and ideas. The Yokohama Declaration, which reflected the work and shared goals and values of professional and volunteer guardians, academics, lawyers, and judges, was a milestone on the road to achieving greater international communication and cooperation. In October 2012, the 2nd World Congress on Adult Guardianship in Melbourne, Victoria, Australia in October 2012 focused on the influence of the Convention on Australian and international adult guardianship systems. This international exchange of experiences will be continued at the 3rd World Congress on Adult Guardianship, to take place in Arlington, Virginia, United States, in May 2014.

Guardianship experts from all over the world have attended these first two congresses; many more will come to the third congress next year. Professor Kim Dayton has brought together a great many of world's leading experts, researchers, and judges from the international adult guardianship area to achieve this wonderful book.

I would like to thank all authors, especially Professor Dayton, for their commitment, passion and hard work over the course of the many months that it took to produce this book. It offers an excellent overview of the history and state of guardianship law around the world, insights into best practices, and perspectives on a variety of national legal initiatives and reforms. I hope this book will inspire readers to consider new strategies and solutions to the reality of adult guardianship.

Jochen Exler-König, Chairperson of the International Guardianship Network  
Berlin, September 2013