Abstractbook

World Congress on Adult Capacity 2026

8-10 July 2026

VU VRIJE UNIVERSITEIT AMSTERDAM

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Foreword

This abstract book provides an overview of the contributions to the World Congress on Adult Capacity 2026. In the following pages, you will find abstracts of the presentations delivered in the parallel sessions during the congress. Further information on the plenary sessions can be found in the congress information booklet. Taken together, these abstracts reflect current research, innovative practices, and ongoing debates in the field of adult capacity.

Collectively, the contributions illustrate the richness and diversity of perspectives shaping this evolving area of law and practice. They underline the importance of interdisciplinary exchange and offer valuable insights into how legal frameworks and practice can better respond to the changing lives and needs of adults who require support and protection.

We hope this collection will serve not only as a guide during the congress, but also as a source of inspiration for further reflection and collaboration beyond it.

Kees Blankman and Rieneke Stelma-Roorda

Convenors, WCAC 2026

Parallel sessions - Wednesday 8 July 2026

Session A - New and Developing Legal Instruments

Cheolung Je

Abstract

The Korean Public Trust Service for Elderly as an Alternative and Supplement to Guardianship

The Korean government announced that the public trust institute would be launched as of January 2026 so that elderly with cognitive impairments can be supported to live in the community with their own property. Nearly ten years ago, a Korean disability organization launched a special needs trust scheme for persons with developmental disabilities as a pilot project, which was eventually accepted by the Korean government and became a kind of social services as of October 2025. In the very near future, trust schemes will be available to persons with cognitive impairments. Unlike the trust scheme for persons with developmental disabilities, the new service by the public trust institute for elderly with cognitive impairments is designed to more directly supplement and alternate guardianship. As the designer of the new public trust institute, my presentation will introduce a new experiment for a supported decision making tool for elderly with cognitive impairments in Korea.

Short biography

Cheolung Je is a law professor at Hanyang University of the Republic of Korea, and has served as the chief of Korean Research Center for Guardianship and Trusts since 2016. He convened the 5th World Congress on the Adult Guardianship, held in October 2018 in Seoul, in capacity of the vice-president of Korean Adult Guardianship Association, and has engaged in numerous research projects launched by the Ministry of Health and Welfare and the Ministry of Justice in Korea for the improvement of human rights of vulnerable adults and looked-after children. He graduated from Seoul National University (1990), and got a Ph.D degree of law at the same university (1995). His research interest has ranged from family law and social welfare law to property law, inheritance law and trust law.

Katrine Kjaerhim Fredwall

Abstract

How to protect against ill-conceived decisions while maintaining autonomy?

How to protect against ill-conceived decisions while maintaining autonomy? Europe's rapidly ageing population is raising new and enhanced challenges for older people in maintaining their dignity and autonomy. They are often expected to live independently in their own homes and are exposed to greater financial and physical insecurity, digital vulnerability and an increased risk of criminality. Our research relating to wills and continuing powers of attorney, as well as our work on the use of digital tools in the Societal Security and Digital Identities (SODI) project (see the SODI website), demonstrate vulnerabilities and the need for further research. In the so-called 'ASAP project', we have applied for funding to continue researching how to leverage private law for older persons, focusing on four discrete challenges: contractual dispositions, power of attorney, testamentary dispositions, and digital independence. One of the challenges we face today is that older people with reduced physical or cognitive abilities may enter into contracts that are detrimental to their wishes and preferences as well at their interests. At the conference, I will discuss the options for developing rules that would allow a contractual disposition to be set aside without limiting the actor's legal capacity, based on one of my articles from 2024.

Short biography

Katrine Kjaerhim Fredwall is Professor of Law at the University of Oslo, Department of Private Law. Her research focuses on family law and law of persons. Publications include among others Familierettens korreksjonsmekanismer (2020) 706 pages, Vergemålsloven. Fremtidsfullmakter mv. (2022) 369 pages (on Continuing Powers of Attorneys) and Legal Capacity in Family Law Matters: Implementing Art. 12 of the CRPD in Norway in International Survey of Family Law 2022, pages 253 – 276. Fredwall has from 2023 – 2025 also been chairing The Cohabitation Act committee, which has prepared a proposal for a Norwegian Act based on a mandate from the Government of Norway. Before returning to the University of Oslo in 2022 she worked in the Ministry of Justice, Norway, with lawmaking related to family law and law of persons including CRPD, state ordered measures and Continuing Powers of Attorney. Through 15 years she has been heading multiple lawmaking projects related to autonomy and protection.

Arianne Foret

Abstract

Accessible justice: easy-to-read judgments and the role of Article 7 bis facilitators

Since Spain's Law 8/2021 and Catalonia's Decree-Law 19/2021, the legal system rejects substitute decision-making, recognising full legal capacity for persons with disabilities, supported by measures respecting their will and preferences. Article 7 bis of the Civil Procedure Act mandates cognitive accessibility: all communications must use clear, simple language adapted to individual needs—easy-to-read formats, sign language, or other supports—for effective participation in proceedings. Easy-to-read is essential for understanding judgments affecting fundamental rights; without it, judicial protection lacks legitimacy. The procedural facilitator, explicitly foreseen in Article 7 bis, is a specialist who adapts communication and ensures equal expression of will. Catalonia's Department of Justice now offers easy-to-read judicial decisions as a key step forward. In practice, our Legal Area prioritises the supported person's will: we listen, challenge non-compliant rulings, and provide informal facilitation in every procedure—adapting communication and promoting participation—while filing appeals for accessible formats, as formal facilitators remain underdeveloped. True accessibility demands real comprehension and participation. Article 7 bis offers tools (easy-read, facilitators, adjustments), but success requires political will and institutional coordination to make them standard for vulnerable persons.

Short biography

Arianne Foret is a lawyer. Legal Area Technician at Support-Girona Foundation. Participated in workshops explaining decision-making support in Catalonia.

Jo Savege and Vicki Price

Abstract

Beyond the Acronym: Improving the application of the Adults with Incapacity (Scotland) Act 2000

The Adults with Incapacity (Scotland) Act 2000 (AWI Act) was among the first legislative milestones of the newly devolved Scottish Parliament in 1999. It established a vital legal framework to uphold the rights of individuals who may lack capacity to make some or all decisions due to a "mental disorder", as defined by the Mental Health (Care and Treatment) (Scotland) Act 2003. When the AWI Act was introduced, a national training programme was delivered to support its implementation. However, in 2021 the Mental Welfare Commission for Scotland's Authority to Discharge report highlighted widespread gaps in knowledge across the social work and health workforce. In response, the Scottish Government commissioned NHS Education for Scotland and the Mental Welfare Commission to work in partnership to improve knowledge and application of the AWI Act. This collaborative project leverages the strengths of both organisations to deliver consistent, high-quality educational resources under a unified 'Once for Scotland' approach. Launched in October 2022, the project unfolded in three phases and was well received. The programme of learning was shaped by the findings of the Authority to Discharge report and the workforce's expressed learning needs. Due to wider interest, the project quickly expanded beyond its initial scope. This project adopts an inclusive and flexible approach to support learners which also acknowledges systemic challenges. It offers a diverse suite of learning resources tailored to adult learning styles, professional roles and the realities of a dynamic and demanding landscape. The presentation will guide delegates through a rights-based, solution-focused journey, from the initial groundwork to early indicators of impact. It will highlight key achievements, lessons learned and the ongoing imperative to strengthen workforce capability in applying the AWI Act in practice.

Short biography

Jo Savege is a Social Work Officer at the Mental Welfare Commission for Scotland, where she leads the Adults with Incapacity project. A social worker, mental health officer and practice educator, she brings over two decades of expertise across mental health services, justice, policy and regulatory and scrutiny bodies. She represents the Commission on the Scottish Government's AWI Reform Expert Working Group, contributing to national discussions on legislative and policy reform.

Renata Šínová

The role of judicial persistent formalism in the protection of the rights of individuals who require a guardian in the Czech Republic

Abstract

This speach will focus on the unmet expectations surrounding the adoption of the Civil Code, which was intended to strengthen supported decision-making for persons in need of protection due to their inability to act and to mitigate judicial formalism aimed solely at restricting their legal capacity. It will present specific practical problems faced by people in need of support, including the rather problematic decision-making practices of the Supreme Court.

Short biography

Associate Professor Renáta Šínová is a long-standing academic affiliated with Palacký University in Olomouc, Faculty of Law, where she works at the Department of Private Law and Civil Procedure. Her academic specialization lies in civil procedural law and family law. In 2024, she successfully completed her habilitation procedure in the field of Civil Law. She has served both in the Academic Senate of the Faculty of Law and in the faculty's management. Beyond academia, she is also active in legal practice as an attorney. Her professional excellence has recently been recognised by the prestigious "Lawyer of the Year 2025" award in the category of Family Law. In addition to her academic and professional activities, she contributes to the legislative process as a member of the Working Commission for Private Law of the Government Legislative Council. She is also a member of the Committee for the Support of Persons with Limited Legal Capacity at the Office of the Government of the Czech Republic, which focuses on issues of legal capacity and promotes necessary reform steps in this area. Furthermore, she lectures at the Judicial Academy, which provides training for judges, public prosecutors, and other justice professionals.

Thanks to her personal experience as a caregiver for a family member with a disability, her expertise is further enriched by valuable practical insight. In summary, Associate Professor Šínová is an exceptional figure in the Czech legal environment, combining outstanding professional expertise with personal experience. This makes her a highly suitable representative of our country for an active contribution to your event.

Session B - Advanced Decision-Making Instruments

Malka Doron

Abstract

From Document to Doctrine: Reimagining Legal Planning Via Process Focus in CPoA Execution in Old Age

The continuing power of attorney (CPoA) has become a fundamental element of advance incapacity planning, enabling individuals to appoint decision-making agents before cognitive or physical decline renders them incapable of making decisions independently. Legal scholarship has extensively analyzed the CPoA from a comparative perspective, highlighting its superiority to guardianship in maintaining autonomy and ensuring greater efficiency, while also emphasizing its vulnerability to abuse and exploitation by agents. Nevertheless, a crucial aspect remains notably insufficiently explored: the execution process itself and its regulatory framework. Empirical studies conducted after Israel adopted the CPoA as a legal planning tool indicate that its execution takes place within intricate familial and social contexts that are not entirely comprehensible through conventional legal analysis alone. These studies underscore the communication, relational, and intergenerational dimensions that are integral to the execution of CPoAs, with significant implications for safeguarding individual autonomy and preventing abuse. This presentation draws on three qualitative studies examining the perspectives of key actors involved in the process under Israeli law (older principals, designated agents, and drafting attorneys) to demonstrate that current procedural regulations often do not sufficiently address aspects of relational autonomy, intergenerational dialogue, and the broader impact of execution on family dynamics. Our analysis will show that reorienting scholarly and regulatory attention toward the process of execution can simultaneously enhance principals' autonomy, mitigate instrumental abuse, and facilitate improved design and implementation of existing and emerging guardianship alternatives. Incorporating process-oriented, context-sensitive considerations not only validates the theoretical foundations of the CPoA but also generates essential insights for developing more effective incapacity-planning instruments.

Short biography

Malka Doron is a doctoral candidate in the Department of Gerontology at the University of Haifa, supervised by Prof. Israel (Issi) Doron. She holds LL.B. and LL.M. degrees in Law, as well as an M.A. in Public Policy, Conflict Resolution, and Mediation. Her doctoral research examines the continuing power of attorney as a legal planning instrument in later life, integrating legal and gerontological perspectives. Her broader academic interests include aging and the law, the rights of older persons, decision-making support, and fostering age-inclusive environments that enhance the autonomy and participation of older adults.

Joan Braun

Abstract

Article 12 of the Convention and Supported Decision-Making: Questions When the Adult Has Dementia

Article 12 of the Convention on the Rights of Persons with Disabilities established a right to legal capacity and a duty on governments to provide access to support that adults with cognitive disabilities need to exercise that right. Since the passage of the Convention there has been a global shift away from substitute-decision-making legislation to supported decision-making legislation. However, questions remain about how to implement supported decision-making in cases where the disability is the result of dementia. There is an increased prevalence of dementia in the older adult population, so these questions mainly impact older adults and their advanced planning. The large body of literature on supported decision-making focuses on adults with intellectual disabilities, and there has been very little research examining supported decision-making models for adults with cognitive disabilities due to dementia. The support needs of these two populations are distinct. There are unique challenges to using this model with older adults with dementia because of fluctuations in cognition and progressive cognitive decline. Due the paucity of research there is little practical guidance for older adults or their supporters about to manage these challenges. This presentation examines why supported decision-making has not been adopted by the older adult community, practical obstacles to using this model with older adults with dementia, and potential solutions to these challenges. The presentation also will include discussion of one finding from a recent Canadian study. This study examined how a British Columbia statute, with the policy objective of protecting vulnerable adults, is being implemented in practice. The study has four findings and one of the findings directly relates to questions about supported decision-making for adults with dementia. The presentation will conclude with recommendations for creating a supported decision-making model that addresses the unique needs of adults with dementia.

Short biography

Joan Braun is a professor at the Bora Laskin Faculty of Law at Lakehead University in Thunder Bay Ontario, where she teaches criminal law, administrative law, elder law and alternate dispute resolution. Her research focuses on legal issues related to aging and recent publications explored three areas: elder abuse, mental capacity and legal issues at the intersection of aging and disability. Joan completed her law degree at the University of British Columbia (BC) in 2000 and was called to the bar in BC in 2001. She subsequently completed a Master of Laws in 2015 and a PhD in law in 2025. Her dissertation examined how statutorily mandated responders in BC provide support and assistance to adults who are being abused and neglected. Most cases involve older adults with dementia. In addition to her legal credentials, she is a registered social worker and has a Master of Social Work degree.

Jordi Ribot Igualada

Abstract

Voluntary Support Measures in Spain: Divergent Paths in State and Regional Legal Reforms

The presentation shall examine the meaning and scope of recent legal reforms in Spain concerning voluntary support measures, with a particular focus on continuing powers of attorney (CPAs). These reforms underscore the challenge of aligning such instruments—conceived as support mechanisms for the exercise of legal capacity—with the principles of the UN Convention on the Rights of Persons with Disabilities. The study compares the regulation of CPAs introduced by the 2021 reform of the Spanish Civil Code, which has faced significant technical and practical criticism, with the solutions proposed in Aragon (2024) and Catalonia (2025). Although these regulations belong to the same national legal system, they differ substantially. The Aragonese approach, inspired by French law, largely departs from the Spanish Civil Code by opting for the so-called 'mandate of support' and excluding powers of attorney as a support measure. In contrast, the Catalan proposal—currently pending approval—introduces specific mechanisms aimed at enhancing protection for the granter once they can no longer monitor the attorney's actions. This interventionist stance diverges from prevailing notarial practice. Across all three cases, the core issue lies in reconciling respect for autonomy—rooted in the granter's trust in the appointees—with the need for safeguards and oversight inherent in support systems operating when individuals lack the capacity to manage their own affairs. The presentation will analyse the values and interests that have shaped these new regulations, assess their potential consequences, and consider whether the system can effectively reduce judicial intervention in the lives of persons facing the loss of their decision-making capacity, while addressing the unavoidable tension between autonomy and the risk of abuse or misuse in voluntary arrangements.

Short biography

Jordi Ribot Igualada is full professor of civil law and director of the Institute of European Private and Comparative Law at the University of Girona. His research has focused on the areas of personal and family law, as well as on tort law. He is the Spanish representative at the Academic Network Family Law in Europe (FL-EUR), where he belongs to the working group on voluntary support measures. He took part in the drafting the second book of the Civil Code of Catalonia, as a member of various working groups of the Observatory of Private Law of Catalonia (2003-2010). He currently holds the presidency of the person and family section of the Codification Commission of Catalonia, responsible for the drafting of the bill currently under discussion on supported-decision making and continuing powers of attorney.

Kwan Youl Bae

Abstract

Welfare Systems for Advocating the Rights and Interests of Persons with Mental Disabilities in Korea

Reflecting on the fact that involuntary admission procedures under the former Mental Health Act seriously violated the human rights of persons with mental disabilities, Korea completely overhauled the law and enacted the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients (Mental Health and Welfare Act), which came into effect on May 30, 2017. This Act strengthened the requirements for involuntary admission, making it more difficult for family members or government agencies to hospitalize individuals against their will, and was designed with a focus on recovery and social reintegration.

Furthermore, the amended Mental Health and Welfare Act, effective as of January 2026, has codified several key systems: the Public Guardianship System, which supports the appointment and supervision of guardians for individuals with severe mental disabilities who require decision-making assistance; the Procedural Assistance System for those involuntarily admitted to psychiatric hospitals or facilities; and the Peer Support System for persons with mental disabilities.

In addition, the Korean government announced the "3rd Basic Plan for Mental Health and Welfare" in March 2026. To advocate for the human rights of persons with mental disabilities, this plan includes strengthening procedural assistance and public guardianship, as well as the introduction of Psychiatric Advance Directives (PAD).

As such, Korea's system for advocating the human rights of persons with mental disabilities is evaluated to be entering a major transitional period. The presenter currently operates the Support Center for Public Guardianship for Persons with Mental Disabilities under the commission of the Ministry of Health and Welfare and has conducted foundational research on PADs for the formulation of the 3rd Basic Plan. Accordingly, this presentation aims to introduce these recent institutional developments and research findings.

Short biography

Lawyer, Board member of "Association of Korean Adult Guardianship", Member of "Commission of Adult Guardianship" in Korean Bar Association

Session C – Abuse

Denisa Vane

Abstract

Contract Support: Preventing Financial Abuse in Loans for Disabled Persons

Access to financial and consumer products is essential for personal autonomy, yet many people with intellectual, psychosocial or cognitive disabilities face a heightened risk of abusive practices, inaccessible electronic contracting processes and external pressures. The UN Convention on the Rights of Persons with Disabilities (CRPD) recognises the right to legal capacity on an equal basis, while Catalan legislation (Law 8/2021 and Decree Law 19/2021) affirms that all persons can make economic and consumer decisions provided they have appropriate support. Support-Girona's model integrates legal and socio-educational guidance to ensure informed decision-making. This includes adapted contract reviews, accessible explanations of risks, support during the signing process and post- contract monitoring, always respecting the person's will. The Foundation also takes an active role in addressing abusive contracts, which involves cancelling unfair agreements, responding to legal claims, negotiating out-of-court settlements, and resolving the financial harm caused by such practices. Experience shows that this combined approach prevents unjust debt, strengthens understanding of contractual obligations and promotes genuine economic autonomy. Based on the analysed cases, several innovative proposals emerge: accessible electronic contracts, personalised digital risk-alert tools, adapted financial education, inter-institutional coordination and human supervision in digital contracting processes. Together, these strategies demonstrate that universal legal capacity becomes real only when effective and accessible supports are in place. With interdisciplinary intervention and reasonable adjustments, remote contracting can become a safe and inclusive environment, preventing abuse and enabling people with disabilities to exercise their economic and consumer rights with autonomy, safety and dignity.

Short biography

Graduated in Law and Criminology, she has a Master's in Access to Law Practice

Anita Smith

Abstract

Applying 'will and preferences' when a person is in grave risk - some case studies and conundrums

Since 2020, legislation in Victoria, Australia has applied principles of 'will and preferences' and abolished 'best interests' principles in guardianship reflecting parts of the UNCRPD. When a person is in a situation of grave risk, but expresses his or her will and preference to remain in that situation of grave risk (physical, financial, abuse etc.), this change in approach presents some challenges. This presentation will address some case studies where the Victorian Tribunal has weighed up considerations of safety, legality against the will and preferences of a person.

Short biography

Anita Smith is a Tribunal Member with the Victorian Civil and Administrative Tribunal. From 2003 to 2016 Anita was the President of the Tasmanian Guardianship and Administration Board and from 2006 to 2016 she was the Chair of the Australian Guardianship and Administration Council. She was the Convenor of the 2012 World Congress on Adult Guardianship in Melbourne and has presented at the Yokohama, Japan 2010 and Washington DC, USA 2014 World Congresses.

Anthony Palmieri & Amy Bryant

Abstract

‘Doe Maar Normaal' & Silver Collar Fraud: Engineering Exploitation-Proof Guardianship

This session challenges the cultural tendency to “just act normal” (doe maar normaal), as two US National Guardianship Association (NGA) Past Presidents and global experts in guardianship and conservatorship monitoring, auditing, and investigations, confronts an uncomfortable truth: fraud is a human condition present in all guardianship systems. Failure to design processes to root out fraud—often manifests as 'Silver Collar Crimes'—means it will likely remain undetected, undermining the principles of autonomy and tailored safeguards. We will provide tools to review the care and management provided by guardians to help provide for the health, safety, and welfare of individuals under guardianship. We will use the Fraud Triangle (Opportunity, Pressure, Rationalization) as a framework to understand how misconduct and exploitation occur. Drawing on extensive investigative experience, we will present compelling, high-profile case studies. These include detailed examples of investigating financial exploitation and professional misconduct from the Palm Beach County Guardianship Integrity Assurance Team in Florida and the auditor model from Davidson County/Metro-Nashville in Tennessee, which identified and prosecuted fiduciary breaches. The presentation will then pivot to provide practical, replicable solutions for maximizing security and dignity. Attendees will learn how to implement effective Guardianship Integrity Assurance programs, focusing on: 1. Risk Assessment: Defining and utilizing investigative 'red flags' for financial abuse. 2. Controls: Establishing a multi-level review process for accountings. 3. Transparency: Driving legislative reform for greater data transparency to 'Unstack the Deck' against predatory behavior. 4. Reporting: Notifying the proper agencies, department and courts for appropriate remedy or retribution. This is a global call to action for all jurisdictions to move beyond passive oversight and actively engineer the necessary floodgates by implementing robust controls to ensure the protection of rights, dignity, and the fullness of justice for all vulnerable adults.

Short biography Anthony Palmieri

Deputy Inspector General for Palm Beach County’s Clerk of Circuit Court Inspector General. A highly credentialed professional (J.D., certified by IIA, ACFE and AIG), he is a widely recognized expert on "Silver Collar Crimes" and fraud in guardianships. He provided expertise to the US Government Accountability Office and the Korean Supreme Court.

Short biography Amy Bryant

Amy Bryant serves as the Davidson County Office of Conservatorship Management Director. Amy demonstrates her passion for her community through service as a leader, instructor and volunteer in numerous organizations. In 2025, under her leadership the OCM received the Liberty Bell Award from the Nashville Bar Association due to its contributions to the legal profession. She is President for the National Guardianship Association. Amy has had several articles published. She pinned an article about the need for training that was published in the National Guardianship Association newsletter. More recently the Tennessee Bar Journal featured her article, “How Can Tennessee Provide Better Oversight for Conservatorships?” in

its July 2023 issue. She was a contributor to the CNN HBO Max documentary Blindsided. Amy serves as an adjunct professor at Belmont University College of Law in Elder Law.

Tomoko Fukuda

Abstract

Trusts in Adult Guardianship in Japan: Balancing Protection and Autonomy

Japan, one of the fastest super-aging societies in the world, urgently needs effective mechanisms to safeguard the property of people who lack mental capacity. In recent years, trusts have emerged as a distinctive tool within adult guardianship. Two models stand out: the "Guardianship Support Trust" (Kōken Seido Shien Shintaku) and the "Family Trust" (Kazoku Shintaku). While both use the trust structure, their purposes differ — the former aims to prevent misappropriation of property by guardians, whereas the latter enables flexible use of property and is often employed as an alternative to adult guardianship. Introduced in 2012, the Guardianship Support Trust is available only in statutory guardianship (kōken). Its adoption rose from 98 cases in 2012 to 6,963 in 2016, before declining to 792 in 2024. During this period, reported losses from property abuse by guardians fell from 56.7 million yen in 2016 to 7.9 million yen in 2024. While causation has not been conclusively established, the correlation suggests a substantial protective effect. The recent drop in usage, however, highlights concerns regarding sustainability and limited accessibility, as it can only be used through trust banks and is unavailable in voluntary guardianship. The Family Trust has seen a sharp rise in use only in recent years, although its legal basis was established by the 2004 amendment to the Trust Act, which allowed individuals to appoint non-professional trustees, such as family members, for non-commercial purposes. Before losing mental capacity, a person can establish a trust as settlor and beneficiary, appointing a family member as trustee, thereby avoiding formal guardianship. After losing mental capacity, the trustee continues property management without court involvement. However, serious cases have emerged in which trustees misuse the property for personal benefit. These two models illustrate Japan's diverse and evolving approaches to adult guardianship amid rapid demographic change. By examining these systems, I hope to share Japan's recent experiences and ongoing attempts to address the problem of property misappropriation by guardians, in the hope that these lessons may be of interest to other jurisdictions facing similar challenges in an aging society.

Short biography

Specializing in adult guardianship and trust law.

Waseem Moorad

Abstract

Looting Under the Radar: Identifying legally disguised financial exploitation efforts that have become commonplace against elderly and incapacitated adults

In an effort to ensure the immediate care of elderly and incapacitated adults, there are various mechanisms put in place to allow for the appropriate legal authority to make decisions on someone else's behalf, such as financial powers of attorney, medical directives and living wills, or guardianships and conservatorships. The challenge becomes that once a legal document or court-order is set in motion, wherein it permits another individual or organization to step into that fiduciary role, then to what extent are there guardrails in place to ensure that either the fiduciary, or the agents that are working in conjunction with said fiduciary, are not financially exploiting those that they have been tasked to care.

The reality in the United States, and potentially across the globe, is that there are continued financial abuses of the elderly and incapacitated. There are elements of our society today that intentionally take advantage of those that can no longer care for themselves and convert their physical and mental demise into the monetary gain for someone else. This could be attributed to the financial inequalities of society, or a forced redistribution of wealth between the working class and those that they may perceive as being of a more elite class – all not under the premise of criminal mischief, but rather, a misplaced justification of the consequence of capitalism or socialism.

When an incapacitated adult possesses real estate, investments, pensions, vehicles, etc., those that are called to assist in their immediate care become the front-line vultures waiting to pillage through said assets. From financial advisors seeking to increase their fees and risks, to realtors eager to liquidate properties for their respective commissions, to private care facilities and nurses manipulating medical assessments to justify their rate gouging, to estranged family members coming out of the woodworks to claim their share before the inheritance, to fiduciaries excessively compensating themselves for being tasked to manage more than their own life – every player involved is introduced to the situation under the guise of caring for the incapacitated, but each comes with their own disguised intentions of how to convert someone else's assets into their own personal lottery ticket.

Through the experience we have accrued as one of the largest private guardianship law firms in our region, our presentation will identify the specific ways that financial exploitation of elders have become more commonplace yet undetected. We will further discuss the checks-and-balances that can be legally implemented that would permit increased scrutiny over the transgressing elements of society. Finally, as laws and policies take time to come into fruition, we will further explain the non-legal mechanisms that can be implemented to ensure the mitigation of the current elder abuse and education of the younger generation to prevent recurrences in the future.

Short biography

Waseem Moorad, as one of the founders of the law firm of Kondori & Moorad, LLP, has been a practicing attorney in the field of estate planning, elder law, and probate administration for over a decade. Additionally, in his role as an associate law professor and clinical director at George Washington University Law School, and previously at Villanova University Charles Widger

School of Law and the University of Pennsylvania Carey Law School, he regularly guides students and
clients in implementing appropriate strategies to better protect their assets, including their respective real estate, businesses, and intellectual property, for effective entrepreneurial growth and securing generational wealth. Waseem is licensed to practice law in Virginia, Maryland, Pennsylvania, Massachusetts, U.S. Virgin Islands, and the District of Columbia, and is a committee member of the National Guardianship Association.

Session D – Research

Angela Arenas Massa

Abstract

Data-Driven Justice for Vulnerable Older Adults

Problem: This study explores whether signs of physical vulnerability—such as cognitive impairment, immobility, or functional dependence—influence judicial outcomes in elder abuse proceedings. Although frailty is a well-established predictor of adverse health outcomes, it is rarely taken into systematic account in legal processes.
Objective: To determine whether the presence of indicators of physical vulnerability—identified through key terms in legal case records—is associated with adverse judicial outcomes in elder abuse cases, such as early case termination due to the victim's death or the imposition of precautionary protective measures. The aim is to inform strategies for prioritizing and safeguarding older adults at risk within the justice system.
Methodology: The study applies natural language processing (NLP) to analyze case transcripts and extract keywords that function as indirect proxies for frailty, including terms such as "age," "mobility aid," "cognitive impairment," "comorbidities," "social worker report," and "medical report." It then examines whether the presence of these terms is associated with: (a) early case termination due to death, or (b) a higher likelihood and type of pretrial protective measures adopted prior to the trial stage.
Results: The findings identify how informal references to vulnerability within judicial records influence decision-making in elder abuse cases.
Conclusion: Integrating vulnerability indicators into judicial analysis could improve the handling of elder abuse by promoting early identification and prioritization of frail individuals. This approach may strengthen access to justice, enhance protection for at-risk older adults, and improve the efficient allocation of institutional resources.

Short biography

Angela Arenas Massa is lawyer and Doctor of European Law Theory from Tor Vergata University in Rome. Professor at the Faculty of Law at Finis Terrae University.
She has worked in the field of elderly rights, both in research projects and in writing scientific articles. She has also been a legislative advisor to the National Directorate of the National Service for Older Adults (2018 and 2020). She is currently a member of the board of directors of the Chilean Society of Geriatrics and Gerontology (since 2021) and director of the Advanced Research Laboratory in Data Science in Law at Finis Terrae University.

Heidi Ernst

Abstract

Data-driven guardianship: building a case acuity scale in the context of global capacity reform

Across the world, guardianship systems face a persistent challenge: balancing protection with autonomy while maintaining sustainable workloads for professionals supporting incapacitated adults. In the US, an estimated 1.3 million adults are under guardianship, with roughly $50 billion in assets under oversight, yet no evidence-based framework exists to guide caseload expectations for public guardians. Arizona operates a county-based public guardianship system. In Maricopa County—population 4.5 million in 2022—the Public Fiduciary Office (MCPF) served as legal guardian for more than 7,000 adults during 2015–2022, managing over 1,000 active cases annually, with counts increasing each year. In 2021, MCPF leadership initiated development of a data-driven tool to estimate the time required to manage individual cases, aiming to create the state's first evidence-based guardianship acuity scale. Partnering with the Maricopa County Department of Public Health's Division of Epidemiology and Informatics (MCDPH), MCPF identified case-level factors that could be systematically captured in existing records and were expected to influence case management time. Using a six-year retrospective sample of over 300 randomly selected cases, MCDPH applied least absolute shrinkage and selection operator (LASSO) regression to identify factors that best predicted average weekly case management time. Key factors included joint medical comorbidities benefits, property oversight, and housing stability and type. The resulting three-level acuity scale classified case management time in sampled data with 60% accuracy. Embedded within MCPF's new case management software, the scale now automatically assigns acuity levels for all active cases (n>1,900), providing a consistent, objective method for anticipating workload. This integration supports equitable resource allocation and enhances operational efficiency. Notably, the initiative required no additional funding and was achieved through collaboration between public fiduciary and public health professionals. This work demonstrates a replicable model for modernizing guardianship systems through evidence-based, ethically grounded practice. By converting subjective judgments into transparent, measurable processes, the Maricopa County experience advances global efforts to align guardianship with principles of proportionality, accountability, and person-centered care reflected in the UN Convention on the Rights of Persons with Disabilities.

Short biography

Heidi Ernst is the Director of Maricopa County's Office of the Public Fiduciary, leading one of Arizona's largest fiduciary offices and advancing the rights and welfare of vulnerable adults there since 2016. She oversees more than 2,000 active appointments, including guardianships, conservatorships, and complex estate and trust matters. A dual-licensed fiduciary and attorney with over a decade of probate experience, Heidi is also a Nationally Certified Master Guardian recognized for her expertise in legal and ethical issues in protective services. She serves as Co-Chair of the National Guardianship Association's Data Collection Task Force. Heidi holds a J.D. from the Phoenix School of Law and dual bachelor's degrees from Arizona State University. Whether working with families, courts, or care institutions, Heidi remains dedicated to strengthening systems that protect society's most vulnerable.

Claire Rommelaere

Abstract

Is capacity really an issue? Living with cognitive disorders in nursing homes: research results

The presentation will discuss the results of a qualitative study conducted in six French-speaking nursing homes in Belgium. Our research team conducted interviews with 66 people and carried out dozens of hours of participatory observations with the aim of understanding how the decisional capacity of people with cognitive disorders living in nursing homes was recognised. This research question stems from the fact that autonomy is widely promoted as a legal obligation, a moral imperative and a social value. But sometimes respecting autonomy seems out of reach, and we wanted to learn about the reality of practices in these situations. In medico-legal literature, autonomy is traditionally defined as the capacity to make healthcare decisions for oneself. This ability has been described as both cognitive and relational, but ultimately it is a decisional capacity that can be assessed and recognised – or not – by others. Recognition of decisional capacity is considered fundamental because it enables people to make their own decisions, whereas incapacity allows someone else to make decisions on their behalf.

We conducted our research using the concept of "decisional capacity". It is consistent with the traditional meaning of autonomy in the healthcare field, and we thought it would elicit more precise responses from interviewees than questions about "autonomy", the meaning of which remains vague for most people.

The results highlight discrepancies between the theory of decisional capacity and lived experience. While the theory of decisional capacity often treats it as a cognitive concept, at least partly, lived experience seems to suggest something much more embodied and relational. This leads nursing home professionals to recognise decisional capacity in many more people than one might expect. However, they often feel unable to translate these decisions into action. In practice, whether someone is recognised as capable or incapable is not what will most likely guide subsequent decisions. The stakes lie elsewhere, for example in security or biological health.

This changes the issue. Rather than devoting our time to the question of capacity and its assessment, we should be focusing on conditions that enable individuals to experience a sense of autonomy. From this perspective, we will present some recommendations for institutions, as well as a broader socio-political critique.

Short biography

Claire Rommelaere holds a PhD in Law and works as a researcher at the University of Namur's Centre for Bioethics. She is devoted to understanding healthcare practices and dilemmas, to question legal concepts in a multidisciplinary way and to translate law into insightful guidelines for healthcare practitioners. Her PhD focused on the capacity of persons with mental disorders ('Trouble mental et capacité : de l'évaluation médicale au soutien social', available via open access). Since then, she has worked on various research projects concerning adult capacity and its legal implications. The International Convention on the Rights of Persons with Disabilities and its General Comment No. 1 have had a profound impact on her work. The submitted abstract concerns a team project also involving a philosopher and an anthropologist

from a healthcare ethics research centre (“Ressort”), as well as a psychologist and a lawyer who co-founded “Le Bien Vieillir”, a centre of expertise in ageing.

Sofia Salsi

Abstract

Navigating Canadian financial capacity and guardianship laws: An overview and critical analysis

In Canadian medical-legal systems, the removal of financial decision-making rights of those living with disabilities is governed by varying provincial and territorial laws, with healthcare professionals often involved in the assessment of financial capacity. The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), Article 12 (2006) states that individuals with disabilities have the right to manage their finances, and mandates safeguards when determining legal financial capacity. Despite human rights implications, Canadian laws vary in legal processes and which professionals can make this determination. It is important to critically examine how Canadian financial capacity laws align with the UN CRPD. This presentation outlines a two-part qualitative study of legal texts comparing Canadian financial capacity and guardianship laws, the role of healthcare professionals, and how laws frame disability, protection, and autonomy. Part One: Authors conducted a comparative content analysis of 16 laws from each province and territory, using the UN CPRD, Article 12 as a framework. Findings revealed variations in key processes: safeguards to prevent guardianship, decision-making models available, which professions have authority to assess financial capacity, and training of healthcare professionals. Only four laws mandated capacity assessment training. Part Two: Authors conducted a Critical Discourse Analysis with legal texts, guiding documents and case law of three provinces that provided unique comparisons and contrasts, Saskatchewan, Manitoba, Ontario. Findings revealed tension between medical and legal systems, with continuous striving for balance between individual's 'best interests' and autonomy, and between immediate risk or potential risk of financial harm, leading assessors to determine capacity based on assumed safety concerns without evidence of impaired decision-making. Texts framed those with disabilities as inherently vulnerable, overlooking systemic barriers that increase their vulnerability to financial harm. Overall, laws were inconsistent in alignment with the UN CRPD Article 12, and training and roles of capacity assessors, leading to possible inequalities and biased assessments. Legal and health system intersections can shape systemic injustice, highlighting the need for healthcare professionals to reflect on financial capacity assessment practices, and further research on assessment practices beyond written texts.

Short biography

Sofia is a 4th year PhD candidate in the Applied Health Sciences program at the University of Manitoba in the beautiful city of Winnipeg, Canada. She has a background in clinical mental health as an occupational therapist and is currently studying laws, policies, and healthcare professional practices around assessing financial decision-making for those with mental health disorders and removing their legal rights. Sofia's research interests are human rights, justice, and advocating for marginalized communities, particularly in the area of finances. In her free time, Sofia enjoys performing stand-up comedy and improv, cycling and traveling around Canada.

Silvia Gonella

Abstract

Legal rights of people with dementia: Comparative analysis of frameworks in eight European countries

Background: Equal recognition before the law, as articulated in the UN Convention on the Rights of Persons with Disabilities, is central to ensuring liberty, security, and autonomy for people with cognitive impairment. People with dementia often have reduced opportunities to exercise legal agency. Understanding how countries operationalise this provision is essential to safeguarding autonomy.
Aim: To analyse how eight European countries in the In-Touch project uphold the right to equal recognition before the law for people with dementia, focusing on informed consent, advance directives, advance care planning, measures of legal protection, and bodies responsible for right protection.
Methods: A human rights-based documentary analysis was conducted. National legislation and policy documents on dementia care were reviewed using a hybrid deductive-inductive extraction matrix underpinned by the UN Convention on the Rights of Persons with Disabilities.
Results: All countries legally guarantee the right to informed consent, but safeguards for individuals with dementia vary. Ireland and Portugal have the most developed jurisprudence, affirming autonomy in people with dementia even when capacity is impaired. Advance directives are formally regulated in Czechia, Ireland, Italy, Portugal, Slovenia, the UK, and the Netherlands, while minimally structured in Poland. Advance care planning is explicitly embedded in legislation in Ireland and Italy, and implicitly recognized within palliative care legislation in Portugal, strongly promoted in Dutch clinical guidelines and UK practice documents, but weakly defined or absent in Czechia, Poland, and Slovenia. All countries provide legal protection mechanisms though alignment with supported decision-making principles is uneven: most rely on court-supervised models, while Ireland and Portugal adopt a hybrid system combining judicial oversight with non-judicial support. Powers of attorney exist across jurisdictions but differ in scope and enforceability, particularly for medical decision-making. Bodies responsible for right protection are inconsistently regulated ranging from highly structured national systems to only general provisions.
Conclusion: European countries show heterogeneous alignment with the UN Convention. Although all provide legal instruments to support decision-making, implementation often reflects substituted rather than supported decision-making models.

Short biography

Silvia Gonella is Assistant Professor in Nursing Science at the University of Torino with a PhD in nursing sciences and public health and post-graduate specialization in Bioethics. Her research focuses on dementia care in long-term settings, family communication at the end of life, and the improvement of care quality in nursing homes. She co-leads the work package on sociocultural, ethics and policy impact of the EU-funded In-Touch project aimed at implementing a person-centered palliative care intervention to improve comfort, quality of life and social engagement of people with advanced dementia in care homes. She also co-leads the IN-CARE project on improving communication knowledge and skills of nursing home staff.

Session E – Crossborder

Péter Stánicz

Abstract

Legal capacity of persons with disabilities in the practice of European fundamental rights forums

Most people take it for granted that they have rights and can exercise them freely, allowing them control over the course of their lives through the daily choices they make. This is not the case for persons with cognitive disabilities, for whom even the recognition of their fundamental rights and the acceptance of their legal standing had not always been evident. I consider the exercise and enforcement of fundamental rights as the primary object of fundamental rights analysis, defining the enforcement of fundamental rights as a conceptual element of fundamental rights themselves. My view of fundamental rights is, thus, a strictly legal approach. It follows from this perspective that the true nature and limits of fundamental rights can be observed and conceptualised from the practice of fundamental rights forums. Fundamental rights forums necessarily take positions on dogmatic questions in the course of adjudicating individual cases — even if the dogmatical significance of a case may not be fully recognized by the deciding body. I examined the practice of the ECtHR, the CJEU and the CRPD Committee. According to my hypothesis, fundamental rights forums must provide coherent responses to dogmatic questions in order to ensure consistent rights enforcement and avoid fragmentation in fundamental rights protection. I identified key dogmatic questions in the jurisprudence concerning decision-making capacity and the restriction of legal capacity for persons with disabilities. Among the dogmatic questions are the role of proportionality, the possibility of justification of restriction of legal capacity, and the application and interpretation of the CRPD. I examined whether the various forums provide coherent responses to the identified dogmatic questions and concluded that there is a clear divergence between the practice of European fundamental rights forums, visible in the respective forums' (ECtHR, CJEU and CRPD Committee) jurisprudence. This divergence may have multiple causes, nevertheless, I emphasize those linked to differing fundamental rights paradigms. The dogmatic approach aims to offer coherent responses to dogmatic questions identified in the practice of fundamental rights forums, contributing to the consistency of legal protection. In my view, the concept of legal capacity as presented is suitable for application in both fundamental rights legal practice and has the potential to explain and mitigate the fragmentation currently observable in this field.

Short biography

Péter Stánicz, attorney-at-law and lecturer at Eötvös Loránd University, based in Budapest. He had previously worked at the Office of the Commissioner for Fundamental Rights (ombudsman) with a disability rights portfolio, before becoming an attorney-at-law with a focus on human rights related cases and strategic litigation before domestic courts as well as the ECtHR. His main academic research areas are the fundamental rights aspects of legal capacity of persons with cognitive disabilities and separately, end-of-life situations and decisions.

Thalia Kruger

Abstract

Support in cross-border decision-making capacity: Contract law vs capacity law

In line with the United Nations Convention on the Rights of Persons with Disabilities (UNCRDP) various legal systems are gradually paying increasing attention to forms of supporting adults in making decisions, rather than replacing their decision-making capacity. Scholarly work on this has mainly been comparative, aiming to identify differences and similarities among various approaches adopted by different legal systems. But what if two legal systems are relevant in a single case and they have widely diverging approaches to supporting an adult? This is the question we endeavour to discuss in our paper. A first challenge is finding the correct applicable law: supporting adults in their decision-making can be considered a measure (of protection), but contract law is also relevant. Measures concerning adults and contract law can however be governed by the laws of different countries. This could lead to confusion about how the contract should be concluded, whether it is valid, and who the contracting parties are. It could be that the adult and the supporting person acted on the basis of a legal system that regulates support in decision-making while the contract is governed by a different law that does not know such support system. The second challenge is the matter of recognition. Depending on whether a person supporting an adult in the decision-making is formally or otherwise appointed has an influence on whether their support would also have effect in other countries.

Short biography

Thalia Kruger is a professor of private international law at the University of Antwerp in Belgium. She also teaches at the University of Cape Town, and is a senior research associate at the University of Johannesburg. Her research interests cover the places of marginalised groups in international family law, international procedural law and international contracts. She is a co-organiser of the Pax moot court. She has acted as expert for legislation in progress at the European Commission and the European Parliament, and as a consultant for the Hague Conference on Private International Law.

Jan von Hein

Abstract

Powers of representation conferred by an adult in contemplation of a loss of autonomy

Lasting powers of attorney are of growing importance in domestic substantive laws because self-determination is essential in respecting the human rights and dignity of each human being. The increased mobility of elder persons, esp. in the EU, however, frequently leads to intricate difficulties in international situations: Which law is applicable to issues such as the validity, form, and proper exercise of powers? How are third parties protected? Which steps have to be taken to certify such powers? Many of these questions are dealt with by the Hague Convention on the International Protection of Adults. However, the convention is difficult to apply in certain contexts, esp. regarding advance medical directives, ex lege powers of representation, and powers of representation granted by an adult after the loss of their full capacity. In addition, the Hague Convention will be supplemented by the EU Regulation on the International Protection of Adults in the near future. In my presentation, I will analyse the complicated relationship between the conflicts rules of the Hague Convention and domestic private international law. Moreover, I will look into which impact the proposed EU Regulation will have in this regard.

Short biography

Jan von Hein is a professor at the University of Freiburg, Germany, where he holds a chair in German, Comparative and Private International Law. Before that, he was a professor at the University of Trier from October 2007 to March 2013. Since 2009, he is a member of the German Council for Private International Law, a select group of law professors acting as advisors to the Federal Ministry of Justice; since 2014, he chairs the Council's 2nd Commission. Von Hein is the author of one of leading German commentaries on the Hague Adult Protection Convention (Staudingers Kommentar zum BGB, Art. 24 EGBGB/ErwSÜ, 2022) and the volume editor of the Münchener Kommentar on private international law (9th ed. 2024/25). He has also published in English on issues of adult protection (most recently with Pietro Franzina et al., Cross-border protection of adults: what could the EU do better?, Journal of Private International Law 21 (2025), pp. 1–29).

Jona Buhrke

Abstract

Protection of adults in cross-border cases: A case-study

Aging societies and increasing numbers of people moving across state borders have led to a rise in cross-border cases concerning measures of protection for adults. These cases raise questions regarding international jurisdiction and the applicable law. A common legal basis for the treatment of such cases has yet to be established. The Hague Convention on the International Protection of Adults, concluded on 13 January 2000, addresses such cases. However, due to the limited number of countries that have ratified the Convention, it has been of limited success so far. This situation has prompted the European Commission to take action. Currently, a new regulation on the international protection of adults is envisaged. The draft by the European Commission aims to establish a common legal basis for cross-border cases concerning adult protection. As the draft has mostly been welcomed, it is widely expected to become law in the near future. My presentation intends to put the proposed EU-Regulation to a test. Applying the Regulation to a case that was decided by the German Federal Supreme Court in February 2025 (BGH XII ZB 128/24), I will discuss the impact of the Regulation and assess how it may improve the legal situation. In this case, a German citizen with a "rechtlicher Betreuer" (legal custodian appointed by the court in order to support and protect the adult) had moved to Poland. In view of this, the Dresden District Court terminated the custodianship. This decision was upheld by the Dresden Regional Court. The "Verfahrenspfleger" (custodian ad litem, appointed by the court to represent the adult in these proceedings) then appealed to the "Bundesgerichtshof" (Federal Supreme Court). The German Federal Supreme Court then had to ask whether German courts have jurisdiction, which law was applicable and, finally, what this law would say about the case. I will show how the German Federal Supreme Court applied the Hague Convention to determine the international jurisdiction and the applicable law in the case. In this context, problems and deficiencies in the current legal framework of the Hague Convention shall be identified. In a second step, I will take a look at how this may change under the new EU-Regulation.

Short biography

Jona Buhrke (*2002) studied law at the University of Göttingen from 2020 to 2025. After passing the first state examination and receiving the Diploma of Law in 2025 he started working at the Chair of Prof. Dr. Dr. h.c. Volker Lipp at the University of Göttingen as a research assistant and PhD candidate. His work focusses on international private law in the area of adult protection.

Holly Chantler

Abstract

Mental capacity law in England and Wales

This session will consider the mental capacity legal framework in England and Wales, including the statutory (principally the Mental Capacity Act 2005) and common law provisions. It will consider powers of attorney and deputyship and, in particular, the session will consider the cross-border protection of adults including the recognition and enforcement of foreign mandates, powers of attorney and court orders. It will be of particular benefit to legal practitioners with clients living or holding assets in England and Wales and who lack capacity to manage their financial affairs.

Short biography

Holly Chantler is a lawyer specialising in mental incapacity law. She is a partner at Morr & Co, a panel deputy and panel guardian for the Office of the Public Guardian, director (and co-founder) of The Professional Deputies Forum and director of The Association of Lifetime Lawyers and sits on the Court of Protection Rules Committee. Holly is the recipient of a number of awards, including in 2025 Modern Law Awards Lawyer of the Year and Probate Industry Awards Outstanding Achievement in the Industry, Chambers and Legal 500. Holly is also a legal author and trainer, published works including: - Author A Practical Guide to Assessing Mental Capacity (Law Brief Publishing 2021) - Author A Practical Guide to the Court of Protection (Law Brief Publishing 2023) - Co-author Law Society Older Client Handbook (6th edition, 2019. Being updated for 2026) - Co-author Lexis Nexis Finance & Law for the Older Client (ongoing publication)

Session F - Panel session 'The Will and Personhood in the Exercise of Legal Agency'

Wayne Martin

Panel session

Panel session 'The Will and Personhood in the Exercise of Legal Agency'

This session brings together a range of experts to reflect on the role of the will (*voluntas*), and practices of will-recognition, in the exercise of legal agency. Panelists will address the meaning of the concept of the will in international human rights law, the place of the concept of the will at the foundations of civil codes, the role of the will in articulating the status of legal personhood, and the practical obstacles faced by professionals who bear the responsibility for supporting persons with disabilities in manifesting their will.

Short biography

Wayne Martin is Professor of Philosophy at the University of Essex (UK), where he directs the Essex Autonomy Project (http://autonomy.essex.ac.uk), a research initiative focusing on human rights and self-determination, particular in care settings and in the context of disability/diverse ability. In addition to its academic outputs, the Autonomy Project regularly provides research support to government bodies, frontline professionals, change-makers and system-shakers in the UK and around the world.

Visa Kurki

Abstract

Legal Personhood and the Will: A Proposed Framework

Western law has long operated with a Kantian, will-based conception of legal agency: one is either a competent agent who can exercise their will through legally valid decisions, or one is placed under guardianship where others decide on the basis of best interests. I label this *classical liberal agency*.

This paper argues that to make sense of the shift to agency-affirming disability law, we need to move beyond a unitary conception of legal agency. I propose a distinction between two types: *self-determination* — the authority to make decisions about one's own life, justified by respect for the person — and *operative agency* — the capacity to engage in complex legal transactions. The classical liberal paradigm bundled these together: full agents had both, and those deemed incompetent had neither. The emerging postliberal paradigm allows them to come apart. Persons with cognitive disabilities may retain self-determination even if it might not be possible for them to exercise operative agency even with the help of support.

Another feature of the classical liberal paradigm is what I term the *capacity-responsibility nexus:* the assumption that the extent of one's legal decision-making power should track the extent of one's legal responsibility. This nexus is quietly embedded in legal doctrine — for instance, the German Civil Code uses nearly identical language for incapacity to contract and exclusion of tort liability. Yet the Disability Convention's push toward universal legal capacity unsettles this nexus. It is not obvious that the expanded recognition of the will of persons with disabilities should entail a commensurate expansion of criminal or civil responsibility.

Short biography

Professor of Jurisprudence, University of Helsinki, Faculty of Law

Janos Fiala-Butora

Abstract

The place for universal legal capacity – the role of law

This presentation argues that law has some specific properties which influence how will and personhood can be operationalised as legal categories. Law is an imperfect tool. It is unable to capture (that is, enforce) some of the distinctions between this capable and incapable decisions. Instead of being a source of a problem, this imperfection can be liberating: a perfect solution, in the sense of optimal categorisation cannot be expected from law.

From this starting point, the presentation argues that the use of legal fiction is an important tool that can be used to overcome some of the obstacles presented by the idea of universal legal capacity. We should take seriously the idea that even though some persons are unable to express their will, from the perspective of legal regulation it might be beneficial to pretend that they are expressing it. Instead of the blending of support and substitution being a problem, it can be a source of solution.

That obviously raises several questions related to abuse, safeguards, and effectiveness. Answering them requires a new metric of evaluating legal regulation. Turning to the imperfection of law identified at the beginning, I will present an approach that in my opinion can operationalise categories of will and capacity more effectively in terms of outcomes. It departs from relying on their essential characteristics in favour of enforceable distinctions.

Rosalía Mejia Rosasco

Abstract

Supporting the Expression of Will: The Role of Notaries in the Exercise of Legal Capacity in Peru

In 2018, Peru reformed its Civil Code, Code of Civil Procedure, and Notary Law to recognize the right of persons with disabilities to express their will and exercise their legal capacity on an equal basis with others. This reform represented a substantial change from the previous model, in which legal incapacity and the appointment of a guardian were the norm, limiting the direct participation of these individuals in legal acts.

From then on, the possibility for persons with disabilities to express their will directly is recognized, even when they require support, reasonable accommodations, or safeguards. In this new context, the notary—as part of the Latin Notary system—assumes a fundamental role in the formalization of legal acts, ensuring that the person's will is respected and properly recorded.

However, this regulatory change brought with it significant challenges. Notaries were not previously trained to address this transformation, which has required a gradual adaptation process in the exercise of their duties. For nearly eight years, notarial practice has been developing tools and techniques to support people with disabilities in expressing their wishes, including reconstructing those wishes based on their life history, actions, and prior statements.

The accumulated experience demonstrates both the complexity and the importance of this task. Through professional practice, hundreds of people with disabilities and their families have been assisted, contributing to the formalization of legal decisions based on their free and autonomous will. This process not only highlights the challenges of change but also the opportunities to consolidate a more inclusive model that respects fundamental rights.

Session G - National Initiatives

Anette Schnellenbach

Abstract

The Reform of the Law on Legal Representation of vulnerable Adults in Germany

In 2021 the German Law on Legal Representation of vulnerable Adults (Betreuungsrecht) was thoroughly reformed, coming into force on 1 January 2023. The aim is to give an overview on the central elements of this reform and the main ideas and intentions behind it.

Short biography

1998 until 2002 Judge for Civil and Criminal at District Court, 2002 until 2004 Federal Foreign Office, since 2004 Federal Ministry of Justice (working fields: Tort Law, Civil Law on aviation, Constitutional Law, Law on Data Protection, since 2015 Betreuungsrecht).

Michael Schindler

Abstract

Supported Decision-Making in Practice: Comparing Agreement-Based and Judicial Mechanisms

Background The standard practice in Israel for Supported Decision-Making (SDM) is the appointment of a supporter for the decision-maker (DM) via court. As part of a broader initiative examining SDM for older adults and persons with disabilities via volunteer supporters, a pilot was conducted to assess the implementation of the agreement-based mechanism. Research Aim The study aims to examine the agreement-based mechanism compared with the conventional judicial mechanism and to explore whether and how the agreement-based mechanism could be implemented. Method The study employed a qualitative methodology, examining the perceptions and experiences of DMs, supporters, and agreement facilitators participating in the pilot, regarding the agreement-based mechanism and its comparison to the judicial mechanism. The study included 27 participants: 11 DMs, 11 supporters, and 5 agreement facilitators. Data were collected via semi-structured interviews with DMs and supporters, and a focus group with facilitators. Findings 1. Participants in the agreement-based mechanism described the support as an empowering and dynamic tool, enabling autonomy and positioning the DMs at the center of control, while allowing flexibility and creative adaptation to changing needs. 2. Participants perceived the judicial mechanism as limiting their sense of control and autonomy, both emotionally—due to perceiving the court as a paternalistic institution, which generated reluctance and avoidance of the SDM process, and practically—due to its being convoluted, lengthy, and dependent on external factors. 3. Despite a clear preference for the agreement-based mechanism, participants noted that in certain cases, court involvement is necessary to protect DMs and supporters in situations of significant risk. Risk was perceived as a critical factor in deciding whether to operate within the agreement-based or judicial mechanism. Conclusion To balance the right to autonomy with the need for protection in situations of varying risk, it is recommended to introduce a 'hybrid' mechanism alongside the agreement-based and judicial mechanism, allowing for protections by the court or an administrative authority in cases of significant risk, while preserving the DMs' autonomy; any such additional protections should be applied cautiously, according to necessity, and with the DMs' consent, and, whenever possible, within the framework of the agreement-based mechanism.

Short biography

Dr. Michael (Mickey) Schindler, PhD in Law, also holds a Bachelor's degree in Social Work. He is a lecturer and researcher at Ashkelon Academic College in Israel, specializing in areas at the intersection of law and welfare, law and aging, law and persons with disabilities, and therapeutic jurisprudence. In addition, he serves as Professional Director at Marva – Law, Welfare, and Empowerment Association, which provides, among other services, support to older adults at risk, and addresses issues related to legal capacity, guardianship, alternatives to guardianship, including supported decision-making.

Maciej Domański & Bogusław Lackoroński

Abstract

What maximises autonomy of vulnerable persons in civil law relations?

The CRPD reflects, strengthens and develops the paradigm shift concerning the notion of 'disability' and our approach to it. In this regard the CRPD is in the same time a result and a cause of further paradigm shift in disability model. According to the CRPD in the definition of persons with disabilities there is laid emphasis on barriers which cause that impairments of different nature hinder full and effective participation in society on an equal basis with others. This approach draws our attention to the surrounding reality as a source of barriers which can be and should be removed or at least reduced to the maximum extent instead of being focused on different kinds of impairments. Implementing this idea in the domestic legal systems require amendments to many acts of legislation or at least changes in their interpretation. It concerns public and private law as well. In private law in the process of change are involved not only state authorities, which are more or less controlled, but also autonomic entities in particular natural persons. We will focus on private law perspective. The problem was that the traditional private law institutions have served for protection of vulnerable persons by depriving them from right to decide on how their legal situation should be shaped and even to be asked for their opinion in this regard. This state of things seems to be a result of two general assumptions. The first is that vulnerable persons are not capable to analyse their situation, take decisions and declare their will according to their interests or at least without detriment to them. The second was that there is limited group of entities, in particular natural persons who are willing to enter into legal relationships with vulnerable persons because of higher invalidity risk. We are aware that in many case, however in our opinion not in all the cases – the first assumption was incorrect. In our presentation we would like to focus on the meaning, importance and adequacy of the second assumption. This is important in particular to answer the question to what extent the amendments to the domestic private laws which are in the line with recommendation of the UNCRPD Committee serve the autonomy in the sense to what extent they make possible to exercise the autonomy and shape legal situation of vulnerable persons on their own by entering in legal relations/legal transaction and when they may not help and be even detrimental to their autonomy.

Short biography

Maciej Domański, PhD with Hab. Department of Civil Law, Faculty of Law and Administration, University of Warsaw (Maciej Domański is Assistant Professor at the Chair of Civil Law, Faculty of Law and Administration, University of Warsaw, and at the Institute of Justice in Warsaw. Maciej Domański is the Deputy Director of the Institute of Justice; Bogusław Lackoroński, PhD with Hab. Department of Civil Law, Faculty of Law and Administration, University of Warsaw (Bogusław Lackoroński is Assistant Professor at the Chair of Civil Law, Faculty of Law and Administration, University of Warsaw. Bogusław Lackoroński is a professor in the Institute of Justice.

Short biography

University of Warsaw and Institute of Justice, Poland

Yukio Sakurai

Abstract

Adult Support and Protection in Japan: Toward a Culturally Responsive Legal Framework

This paper critically examines the legal foundations of adult support and protection through a comparative and normative lens. It addresses the evolving institutional and conceptual development of adult safeguarding systems in response to global demographic shifts and the growing prominence of rights-based legal standards. The analysis emphasizes the need to move beyond conventional guardianship regimes that rely on capacity assessments and substituted decision-making, and toward frameworks that prioritize autonomy, dignity, and proportionality. Focusing on Japan, the study highlights the limitations of its fragmented legal landscape, which comprises adult guardianship, welfare policies, and elder abuse prevention, but lacks overall coherence. In contrast, jurisdictions influenced by common law, particularly Ireland, have introduced more integrated systems. Ireland's dual legislation: the Assisted Decision-Making (Capacity) Act 2015 and the Adult Safeguarding Bill 2024, establishes a functional distinction between supported decision-making and risk-based interventions, while maintaining a unified rights-based approach. The paper draws on vulnerability theory and the capability approach to assess how legal systems can reconcile protective functions with individual autonomy in a manner that is both normatively sound and culturally appropriate. Japan currently lacks a comprehensive adult safeguarding statute, an independent protection authority, and adequate institutional mechanisms to facilitate inclusive decision-making. Moreover, deep-seated norms regarding familial responsibility present further challenges to implementing foreign legal models without contextual adaptation. In response, the study proposes four key areas of reform: (1) the establishment of an integrated legal framework; (2) the creation of an independent safeguarding body; (3) the legal institutionalization of supported decision-making with appropriate professional support structures; and (4) enhanced responses to economic abuse and digital exploitation. While primarily theoretical and comparative in nature, the paper also calls for further empirical research, particularly into user experiences and frontline professional practices. It advocates for a hybrid legal model that meets international human rights standards while remaining culturally legitimate and operationally viable within the Japanese context.

Short biography

Doctor of Laws, Researcher on Elder Law, Healthcare Policy, and Supported Decision-Making Practices

Victòria Monell Renar

Abstract

MOVERE: digital and community-based support to reduce unwanted loneliness and strengthen autonomy among people with psychosocial disabilities

MOVERE is an innovation project developed in Catalonia by Fundació Silvestra Moreno, in collaboration with research and technology partners, aimed at addressing unwanted loneliness, digital exclusion and barriers to community participation among adults with psychosocial disabilities and mental health support needs.
The project was created within the framework of support services for the exercise of legal capacity, with the aim of adding a relational, community-based and autonomy-oriented dimension to everyday support. Rather than focusing only on individual needs or clinical vulnerability, MOVERE seeks to strengthen people's opportunities to participate in community life, build meaningful social connections and make decisions about their own activities, interests and support pathways.
MOVERE combines three main components: a digital application, personalised professional follow-up and community engagement. Through the application, participants can access to information about activities, register for them, communicate their emotional state and remain connected to professionals and community opportunities. At the same time, professionals can better identify situations of isolation, accompany decision-making processes and adapt support to each person's preferences, rhythm and context.
Preliminary data from the project include 118 people linked to MOVERE, including 63 participants and 55 professionals, across different territories in Catalonia. Early findings suggest improvements in digital skills among a significant proportion of participants, as well as increased participation in community activities and greater visibility of unwanted loneliness as a relevant issue within mental health and legal capacity support services. After one year of participation in MOVERE:

- 87% improve their perception of loneliness.
- 52% improve their perception of emotional well-being.
- 77.3% improve their perceived social support.
- 60% consider that their quality of life has improved.

These results are still preliminary and should be interpreted with caution, but they point to the potential of combining digital tools with human, relational and community-based support.

Short biography

Economist, for 15 years she has been the general director of the first foundation to support legal capacity, Fundació Silvestra Moreno, formerly Fundació Malalts Mentals de Catalunya. This foundation was created in 1992 and currently serves more than 1,300 people.
She is also president of the Associació Encaix, a federation of 12 foundations that serve more than 6,000 people globally.
She has presented several abstracts at the WCAC in recent years

Session H - Rights of Persons with an Intellectual Disability

Brenda Frederiks

Abstract

Involuntary care: meaning of supported decision-making

The aim of the Care and Coercion Act is to improve the rights of persons with an intellectual disability (ID) when it comes to involuntary care. This Act contains different instruments to increase the self-determination of persons with an ID. In practice, however, persons with ID experience too little control when it comes to decision-making about involuntary care. The UN convention for persons with ID introduces supported decision-making. How can this concept contribute in practice when it concerns involuntary care? In December 2025 a consortium existing of researchers and experienced experts (persons with an ID) started a study of three years. The objective of this (practical) research is to increase the self-determination of persons with ID when it concerns involuntary care and to clarify the role and meaning that supported decision-making can play in this. The research aims to provide insight into good examples in this area and hopes to contribute to raising awareness of the respect for human rights of people with ID. In our presentation we will focus on the main concepts of involuntary care, self-determination and supported decision making. How can these three concepts strengthen each other and eventually the quality of life of persons with an intellectual disability?

Short biography

Brenda Frederiks is a Dutch university lecturer and senior researcher in health law at Amsterdam UMC. She specializes in the legal position and rights of vulnerable people, such as individuals with intellectual disabilities and the elderly with dementia. She is an expert on the Dutch Compulsory Mental Healthcare Act (Wet zorg en dwang) and has published extensively on this topic. Additionally, she works as a jurist member of the Central Disciplinary Tribunal for Healthcare (Centraal Tuchtcollege voor de Gezondheidszorg) in The Hague and is an author and editor for several legal and medical journals.

Elizabeth Moran

Abstract

Profit With Purpose: Inclusive Employment in Colorado (USA) Fuels Advocacy and Expands Opportunity

Join The Arc of Colorado's Executive Director, Elizabeth Moran, JD, and Lloyd Lewis, CEO and President of arc Thrift Stores, as they share how designing a system that is financially independent, community-driven, and free from state or federal funding pressures, keeps The Colorado Arc Network's advocacy focus squarely on the needs, preferences, rights, and self-determined goals of people with intellectual and developmental disabilities (IDD). Across the United States, organizations are rethinking what meaningful employment and sustainable advocacy can look like for people with intellectual and developmental disabilities (IDD). This session highlights an innovative business model in Colorado that does more than create jobs—it creates change. By directly employing people with IDD in competitive, community-based roles, this model provides hands-on training, real wages, and career pathways that honor each person's strengths and ambitions. But the impact doesn't stop at employment. Profits generated through these enterprises are reinvested into advocacy organizations dedicated to advancing civil rights, increasing community inclusion, and improving public policy for people with IDD. This dual-impact model leverages the power of business to fuel systemic change and can serve as the foundation for long-term social and economic mobility. Through real-world examples, operational insights, and outcomes data, attendees will learn how integrating workforce development with mission-driven advocacy creates a sustainable cycle of empowerment—one that strengthens both individuals and the broader disability rights movement.

Short biography

ELIZABETH A. MORAN, JD, Executive Director of The Arc of Colorado, serves on the Governor's Disability Rights Task Force, The ArcUS Legal Advocacy Committee, NGA Board of Directors, and editor of NGA's Legal & Legislative Review on Guardianship. Elizabeth previously served as Chief Counsel at the ABA Commission on Law & Aging and Chair of Missouri's Advisory Committee to the U.S. Commission on Civil Rights. She is a sibling of an adult with IDD, daughter to parent with Alzheimer's disease, and is passionate in her efforts to promote and protect the human rights and dignity of choice for all. LLOYD LEWIS, President and CEO of arc Thrift Stores, is a longtime business leader turned disability-rights advocate. After a career in finance and corporate roles he found a new calling following the birth of his son, Kennedy, who has Down syndrome. The organization has grown significantly, employing hundreds of people with IDD and funding substantial advocacy & support services across Colorado.

Insook Park

Abstract

Vulnerable Youth's Independence: A Paradigm Shift from 'Proxy' to 'Support'

Under South Korea's Child Welfare Act, protection typically ends at age 18, forcing children in care to begin independent living. However, as the Civil Act defines adulthood at 19, these individuals remain legally minors for one year without a legal representative. This "legal protection gap" prevents them from performing essential legal acts—such as financial contracts or residential leases—in their own name. Unlike peers who receive parental support for education and career stability, these young people must take full responsibility for their survival without a safety net. Having been raised under a lifelong system of decision-making 'proxy', they often face psychological limitations in making autonomous judgments. This excessive burden frequently drives them into mental crises, increasing their vulnerability to crime and emotional isolation.

Based on Martha Nussbaum's Capabilities Approach, this study redefines independence as a process of guaranteeing substantive opportunities befitting "human dignity," beyond mere economic aid. Essential tasks include resolving social stigma and strengthening "Affiliation" capabilities. To protect mentally vulnerable young adults, we must shift from a 'proxy-centered' framework to a 'support-centered' model that respects autonomy while ensuring safe choices. This involves providing sufficient information, aiding comprehension, and patiently respecting their decision-making process. An integrated management team of specialists is required to support their self-reliance and recovery from potential failures.

Additionally, introducing a "Guardianship Support Trust" is crucial to protect foundational assets, such as independence settlement funds, while fostering economic capability. Establishing multi-generational social networks, like the "Social Fam" model, is also essential to secure emotional safety bases within the community. In conclusion, advocating for the rights of these young adults should be established as a universal welfare service that supplements the state's role as a "social parent." Through the 2026 Amsterdam Conference, we propose the global dissemination of this support model to help vulnerable youth settle as autonomous citizens.

Short biography

I am a lawyer in private practice, dedicated to public interest advocacy for women and youth. As a member of Minbyun (Lawyers for a Democratic Society), I provide legal aid and work on institutional reforms for young people. My international experience includes participating as an NGO representative in the UN CEDAW review (2016) and submitting an independent report on juvenile justice to the UN CRC (2019). Currently, I am helping young people preparing for independence in cases involving abuse in care facilities. I support them as they overcome mental health challenges and move toward self-reliance. As a doctoral student under Professor In-Hwan Park, I combine my research with my work in the field. By solving legal problems for these young adults, I gain firsthand insight into the systemic hurdles they face, striving to improve the legal framework for their successful transition to adulthood.

Dianne Millen

Abstract

Safeguarding and deprivation of liberty - a cross-disciplinary view from Scotland

Co-presentation with Dr Barbara Schuler, Stirling University. The safeguarder occupies a distinctive and increasingly critical position in Scottish guardianship proceedings. Safeguarders are appointed by courts "to safeguard the interests of the [incapable] adult and to report to the court" (Boyle v Denton 2024 Sheriff Appeal Court (Civ) 20). This is distinct from acting as the instructed legal representative of the Adult, but the role remains poorly defined in both statute and caselaw, creating potential ambiguity about how safeguarders should interpret and discharge their duties. Recent decisions from the Court of Protection of England and Wales have brought urgent attention to this ambiguity. In Aberdeenshire Council v SF (No 2) [2024] EWCOP 10 and Argyll and Bute Council v RF [2025] EWCOP 12, the courts examined how Scottish guardianship proceedings can operationalise the incapacitated person's right to be heard in ways that ensure natural justice. Both judgments identify the safeguarder as having a potential role in human rights protection. However, given that the role is open to contested and ambiguous meanings, and in the absence of clear statutory provisions in Scotland governing the procedures for deprivation of liberty, there is a lack of clarity about whether individual safeguarders can or indeed should take on the role of ‘representative’ in the context of such human rights protection. This presentation addresses these issues by drawing on cross-disciplinary research. The concept of safeguarding also exists in Scottish child law, where safeguarders to Children's Hearings must act in the "best interests" of the child. A longitudinal study of Children's Panel safeguarders, undertaken by the University of Stirling, explored how safeguarders interpret ambiguous statutory duties, make sense of complex situations, and reach recommendations about children’s “best interests”. This empirical work provides rare insight into how safeguarders understand contested concepts such as "best interests" and navigate the tension between procedural duties and substantive protection. While working within a different legislative framework, these concerns are also relevant to incapacity safeguarders. By combining this academic analysis with practical experience of working as a safeguarder in adult proceedings, we examine what the safeguarder role means in practice and consider how it might be developed and defined in the context of human rights protections.

Short biography

Dianne is an experienced AWI practitioner, having worked in this area since qualifying as a solicitor in 2011. Having worked in a number of top-tier full-service firms, in 2025 she established her own practice, Datrys Legal Ltd, solely focusing on AWI law. Dianne is accredited by the Law Society of Scotland as a specialist in Incapacity and Mental Disability Law. She serves as an AWI Safeguarder for both Edinburgh and Glasgow Sheriff Courts. Dianne is also a Legal Convenor for the Social Security Chamber of the First-tier Tribunal of Scotland and a Legal Assessor for the General Teaching Council of Scotland Fitness to Teach panel. She is a member of the Law Society of Scotland’s Policy Subcommittee in Mental Health and Disability Law. Outside of practice, she is currently studying for a MSc in Counselling at Abertay University and volunteers for the National Board of Relationships Scotland.

Paul van Trigt

Abstract

Rights or friends. Lessons from the international history of people with intellectual disabilities

What does disability history teach us about improving the rights of persons in need of support? From the literature we know that international activists who have an intellectual disability or speak on behalf of people with intellectual disabilities challenged for instance predominant discourses on human rights, questioning the rational and independent human rights subject during discussions about the United Nations' disability policies. In this paper, I will discuss the international emergence of the concept of friendship with intellectually disabled people that was developed as an alternative for the human rights perspective on disability. Although the International League of Societies for the Mentally Handicapped (today Inclusion International) was one of the first international organizations claiming equal human rights for people with intellectual disabilities, internationalists affiliated with this organization also started to express unease with the human rights discourse, especially when this discourse became globally more dominant during the 1990s. Several internationalists, often with a progressive theological background, embraced friendship as a key concept for the inclusion of people with intellectual disabilities and the recognition of their humanity. In my paper, I will historicize this embracement as a critical response to the experienced dominance of (Anglo-American) liberalism and explore which lessons can be learned from this history for the future of the rights of persons in need of support.

Short biography

Paul van Trigt is assistant professor social history at Leiden University, specialized in the history of disability. Recently, his monograph about human rights and disability internationalism since the 1960s is published with Columbia University Press. In 2026, he will start a new project on disability and friendship from a transnational moral history perspective (ERC Consolidator Grant).

Session J - Research and Care

Sofia Salsi

Abstract

Exploring the Experiences of Canadian Healthcare Professionals in Financial Capacity Assessment

Healthcare professionals in Canada have a key role in assessing and determining medical-legal financial capacity, where errors have human rights implications. However, formalized roles of healthcare professionals vary across provinces and territories, with different disciplines implicated. Additionally, there is limited guidance for healthcare professionals, representing a potential gap in evidence-informed practice. Understanding current experiences and challenges of Canadian healthcare professionals involved in financial capacity assessments is crucial but to date, has not been explored. This presentation discusses a study that described and compared current roles, practices, and perspectives on practice improvement of healthcare professionals in financial capacity assessments across three Canadian provincial jurisdictions. Authors conducted semi-structured interviews with 16 healthcare professionals (Occupational therapists (n=8), social workers (n=7)), psychologists (n=1)) involved in financial capacity assessments in the Canadian provinces of Saskatchewan, Manitoba, and Ontario. Authors used Braun & Clarke's Reflexive Thematic Analysis (rTA) to generate themes. Authors developed 3 main themes related to various feelings of discomfort secondary to their practice context. Theme one describes how professionals without a formalized capacity assessor designation in their province identified as a 'piece of a puzzle,' defining their roles within a team, while feeling they individually had insufficient knowledge on larger legal process. In the second theme, professionals working as formally designated capacity assessors felt isolated as they did not work with a team, with also increased tension between their legal roles and clinical identities. Last, theme three found that participants in all jurisdictions described continually 'digging,' for resources, expressing need for accessible, evidence-based information. These results highlight that financial capacity assessment is complex across healthcare professional roles and legal jurisdictions, with limited guidelines, training, and resources. In conclusion, legislation with clearer expectations of healthcare professional roles, increased training, and practice guidelines would support ethical and effective financial capacity assessments.

Short biography

Sofia is a 4th year PhD candidate in the Applied Health Sciences program at the University of Manitoba in the beautiful city of Winnipeg, Canada. She has a background in clinical mental health as an occupational therapist and is currently studying laws, policies, and healthcare professional practices around assessing financial decision-making for those with mental health disorders and removing their legal rights. Sofia's research interests are human rights, justice, and advocating for marginalized communities, particularly in the area of finances. In her free time, Sofia enjoys performing stand-up comedy and improv, cycling and traveling around Canada.

Inhwan Park

Abstract

A Study on the Current Practices of Seclusion and Restraint in Korean Psychiatric Hospitals

This study examines the current practices of seclusion and restraint in Korean psychiatric hospitals based on a nationwide survey conducted by the Ministry of Health and Welfare in 2024, together with in-depth interviews with service users, families, and clinical staff. Among 388 institutions operating seclusion rooms between January and June 2024, 23,389 inpatients (12.7%) experienced seclusion and 12,735 (6.9%) experienced restraint. The average cumulative duration per person was 23 hours 28 minutes for seclusion and 5 hours 18 minutes for restraint. Cases exceeding the maximum continuous duration accounted for 1.9% of seclusion (1,482 cases) and 0.4% of restraint (130 cases), with the longest lasting 1,151 hours 45 minutes and 245 hours 40 minutes, respectively. Exceeding cases were mainly associated with risk of harm, physical dangers, withdrawal or delirium, and persistent psychotic symptoms. Interviews revealed that while seclusion was generally viewed as sometimes unavoidable, opinions on the necessity of restraint varied. Users and families consistently emphasized that these measures can gravely infringe on dignity and cause lasting psychological trauma, especially when accompanied by insufficient explanation, disrespectful behavior, or degrading room conditions. Some perceived seclusion and restraint as substitutes for staffing shortages rather than clinical interventions, whereas respectful staff conduct helped mitigate negative effects. Clinicians identified complex clinical and structural factors behind the use of coercive measures. Physicians stressed the need for national initiatives to reduce seclusion and restraint, including workforce expansion, alternative de-escalation methods, and improved reimbursement and facility standards. Nursing staff highlighted chronic staffing shortages—particularly at night—as the primary barrier to safe monitoring. Across staff groups, the need for training, stabilization techniques, and debriefing practices was consistently raised. Key recommendations include: securing adequate skilled staff; improving seclusion room standards; strengthening monitoring systems; developing and disseminating non-coercive interventions; enhancing staff training; and reforming reimbursement structures to support appropriate acute-phase staffing and preventive practices. Continued discussion is required on compliance monitoring and accountability for violations of seclusion and restraint guidelines.

Short biography

Vice President, Korean Guardianship Association; Vice President, Korean Family Law Association; Member, National Center for Mental Health and Welfare Projects (Korea)

Eefje Sizoo

Abstract

Euthanasia in dementia based on an advance euthanasia directive: practical guidance for physicians

Introduction: Euthanasia in dementia based on an advance euthanasia directive (AED) is possible within the Dutch Euthanasia law. However, physicians struggle with the responsibility of interpreting the law's open norms in cases of advanced dementia, which includes the fulfilment of the due care criteria. This project explored these complexities from a practical, ethical and legal perspective.

Objective: To develop practical guidance for physicians in carefully dealing with euthanasia requests in dementia based on an AED.

Methods: The DALT project used a mixed-method approach, including questionnaires among physicians, qualitative case studies of real-life dementia-related euthanasia cases, interviews with physicians and relatives, focus groups with legal experts, and a Delphi study aimed at achieving medical, ethical, and legal consensus on AED-based euthanasia in dementia.
In collaboration with relevant stakeholders. the insights from the studies were translated into a decision aid for physicians.

Results: AED-based euthanasia in dementia remains rare, mainly due to uncertainty about current wishes, assessment of unbearable suffering, in the context of limited patient communication. Decision-making was shaped by five interrelated considerations - weighing the AED, assessing current wishes, the elusive nature of unbearable suffering, exploring alternatives and putting plans into action - within the broader context of, record-keeping, physician-patient relationship, professional experience and seeking validation from others. Physicians reported moral boundaries and increasing societal and professional pressure. Legal experts confirmed that the due care criteria function as open norms, offered limited additional legal guidance and placed primary interpretive responsibility on physicians. The Delphi study provided insight into the arguments pertaining to some of the dilemmas encountered by physicians in practice. With these insights, a 'decision aid' for physicians was developed.

Conclusion: In the light of the increasing number of AED-based euthanasia requests and the persistent dilemmas surrounding the fulfilment of the due care criteria, careful decision-making, within the moral boundaries of individual physicians, is crucial. The decision aid can support physicians – in cooperation with other stakeholders - in making a careful assessment of whether or not to perform euthanasia in a person with dementia based on an AED.

Short biography

Eefje Sizoo MD, PHD is trained as an Elderly Care Physician and currently working as assistant professor and teacher in medicine for older people. She leads a research line focusing on optimizing decision making in medicine for older people. A

particular area of interest to her is how people with decision making disabilities as a result of cognitive decline can be optimal included in decisions regarding treatment, care and everyday life.

Hsuan-Lei Shao & Toru Morichi

Abstract

Supporting Transition to Adulthood in Persons with Intellectual Disabilities

The transition to adulthood for persons with intellectual disabilities and severe mental and physical disabilities presents complex challenges that require interdisciplinary collaboration across law, social welfare, nursing, medicine, psychology, and community support systems. In this collaborative Taiwan–Japan project, autonomy and independence support are placed at the core of adult transition support. Guided by the principles of supported decision-making under the Convention on the Rights of Persons with Disabilities (CRPD), the study examines how individuals and their families understand autonomy, decision-making, quality of life (QOL), and professional support, and how these perspectives are translated into sustainable legal, medical, and social frameworks that respect rights and agency. IRB approval procedures have already been completed, and all interviews in Japan have been fully conducted. These interviews capture the actual experiences and perceptions regarding support and the transition process. The research teams in both countries are currently coordinating data structuring and preparing mixed-method analysis combining qualitative interviews and quantitative questionnaires targeting persons with disabilities (late teens to 30s) and their families. This joint research fostered dialogue among legal, medical, and social welfare scholars, graduate students, doctors, nurses, social workers, caregivers, and other stakeholders. It promotes CRPD-aligned supported decision-making models. Through ongoing comparative research and stakeholder engagement, the project is laying an empirical foundation for further legislation, professional training, and policy development. Ultimately, it contributes to the co-creation of evidence-based, rights-oriented models of autonomy and independence support that enhance the quality of life of persons with disabilities and their families in both Taiwan and Japan.

Short biography Hsuan-Lei Shao

Associate Professor Hsuan-Lei Shao teaches at the Graduate Institute of Health & Biotechnology Law, Taipei Medical University. His work combines empirical law, medical law, and computational social science to examine how decision-making capacity and quality of life are shaped in institutional and health-related contexts. His recent study, “Medical Litigation Dispute Automatic Labeling System—Enabling Medical Referee Predictions”, applies text mining to court judgments in medical disputes to enhance transparency and accessibility in legal reasoning. Shao also presented “Environment Profiles, Transitions in Patterns of Social Participation and Quality of Life of Disabled Older Adults” at the ISQOLS 2023 Annual Conference, focusing on lived experiences and QOL transitions among vulnerable populations. His research agenda seeks to develop evidence-based, human-centered models that connect legal capacity, interdisciplinary care, and social participation.

Short biography Toru Morichi

2022-10 – 2022-11 Visiting Scholar, College of Law, National Taiwan University
2019-08 – 2019-09 Visiting Scholar, College of Law, National Taiwan University
2013-10 – (Present) Assistant Professor, Division of Disability Science, Faculty of Human Sciences, University of Tsukuba
2013-04 – 2013-09 Assistant Professor, Department of Psychology and Welfare, Faculty of Life Sciences, Ibaraki Christian University
2012-04 – 2013-03 Assistant Professor, Department of Human Welfare, Faculty of Life Sciences, Ibaraki Christian University '
2011-04 – 2012-03 Joint Researcher, Institute of Social Work, Japan College of Social Work
2007-04 – 2011-03 Researcher, Planning and Research Department, Nozomi-no-Sono National Comprehensive Facility for Persons with Severe Intellectual Disabilities
2006-04 – 2007-03 Researcher, Welfare Education Centre, Faculty of Welfare Studies, Josai International University

Session K - Special Topics

Jongjin Shim

Abstract

Judicial Operation of Public Guardianship at the Seoul Family Court

The transition to adulthood for persons with intellectual disabilities and severe mental and physical disabilities presents complex challenges that require interdisciplinary collaboration across law, social welfare, nursing, medicine, psychology, and community support systems. In this collaborative Taiwan–Japan project, autonomy and independence support are placed at the core of adult transition support. Guided by the principles of supported decision-making under the Convention on the Rights of Persons with Disabilities (CRPD), the study examines how individuals and their families understand autonomy, decision-making, quality of life (QOL), and professional support, and how these perspectives are translated into sustainable legal, medical, and social frameworks that respect rights and agency. IRB approval procedures have already been completed, and all interviews in Japan have been fully conducted. These interviews capture the actual experiences and perceptions regarding support and the transition process. The research teams in both countries are currently coordinating data structuring and preparing mixed-method analysis combining qualitative interviews and quantitative questionnaires targeting persons with disabilities (late teens to 30s) and their families. This joint research fostered dialogue among legal, medical, and social welfare scholars, graduate students, doctors, nurses, social workers, caregivers, and other stakeholders. It promotes CRPD-aligned supported decision-making models. Through ongoing comparative research and stakeholder engagement, the project is laying an empirical foundation for further legislation, professional training, and policy development. Ultimately, it contributes to the co-creation of evidence-based, rights-oriented models of autonomy and independence support that enhance the quality of life of persons with disabilities and their families in both Taiwan and Japan.

Short biography

1/2025 - Present : Clerk of Court, Seoul Family Court
1/2021 - 12/2024 : Secretary to the Justice, The Supreme Court
1/2016 - 12/2020 : Clerk of Court, Seoul Central District Court
1990 - 1998 : The College of Law, Hankuk University of Foreign Studies (Bachelor of Law)

Kia B. Kondori

Abstract

Securing financial protection strategies through the legal petition for guardianship

One of the challenges in the field of guardianship is that fiduciaries, family members, and healthcare professionals are intently focused, and rightfully so, on the immediate medical care and attention of the individual that is currently incapacitated. However, in many circumstances, what gets overlooked in the short-term purview are the long-term financial implications caused by the individual's current mental state. As such, the initial petition process within the judicial system to obtain legal guardianship is one of the most critical junctions to understand the financial capability of the individual in need of help as well as developing the financial strategy, from a legal lens, to effectively care for the remainder of their life. Yet, if an elder law attorney is retained to help pursue a court order for guardianship, and that attorney is not additionally familiar with proper estate planning strategies, it may result in legal and financial issues for the fiduciary in the future as they attempt to effectively manage the care of the individual they serve as guardian for. As one of the largest private guardianship organizations in our region, our law firm serves as court-appointed fiduciaries for incapacitated individuals, and through our vast understanding of elder law, estate planning, and probate administration, we successfully navigate through the judicial system to ensure the appropriate care and strategy for the incapacitated individual is available and implemented from the onset. As such, our presentation will discuss how to legally control and manage the assets of an incapacitated individual, such as their real estate, bank accounts, financial investments, and vehicles, in such a manner so as to be able to pursue governmental benefits, collaborate properly with financial institutions, liquidate assets without significant legal obstacles, and avoid probate administration to ensure the assets are passed to the next generation. We will further identify how specifically to address these critical strategies within the original legal petition with the courts, and how being proactive, rather than reactive, at this stage with these legal maneuvers, can save time and resources for the guardian, prevent disruption of care for the incapacitated individual, and avoid potential governmental recovery of assets. This discussion will further expand into the estate planning legal rights of agents that decide to remain in a power-of-attorney state rather than pursuing a formal guardianship, as well as the legal rights of individuals creating their own estate planning documents while in an incapacitated state. By understanding the specific legal process and corresponding protection strategies of an incapacitated individual's assets, it will provide an opportunity to understand the system in the United States and compare it with the corresponding legal strategies available in other nations.

Short biography

Kia B. Kondori, as one of the founders of the law firm of Kondori & Moorad, LLP, has been practicing in the elder law, estate planning, and probate administration field since 2014. As one of the most critical resources in the community, he has routinely advised judges, legal counsel, hospitals, local and state municipalities, and non-profit organizations, how to effectively navigate through the judicial system to ensure the appropriate legal documents, fiduciary powers, and court orders are put in place to aid in the care of incapacitated individuals that are in need of guardianships and conservatorships. In the last three years alone, Attorney Kondori has served in a fiduciary role for over 500 individuals in the community. He is a member of the

National Elder Attorney Law Association and the National Guardianship Association, and is licensed to practice law in Virginia, Maryland, and the District of Columbia.

Georgia Edson

Abstract

A Question of Bias in Advocacy: A Model from The Colorado Arc Network

Join Executive Directors, Elizabeth Moran, JD, and Georgia Edson, LCSW, of The Colorado Arc Network as they share Colorado's uniquely structured model of advocacy and explore the core question: Is it possible to advocate for - and with - people who have limited capacity in a truly unbiased way?

All advocacy, even when grounded in good intentions, is shaped by a complex set of biases. Some biases are explicit, such as financial incentives, funder expectations, organizational mandates, or political pressures. Others are implicit-formed through personal experience, professional training, cultural perspectives, or assumptions about what people with disabilities "should" want or "can" do. These biases can influence decisions, service plans, school supports, and the relationships between people with disabilities and those who serve them.

The Arc Network in Colorado has developed a uniquely structured model to minimize these biases wherever possible. By designing a system that is financially independent, community-driven, and free from state or federal funding pressures, The Arc aims to keep its focus squarely on the needs, preferences, rights, and self-determined goals of people with intellectual and developmental disabilities (IDD). A foundational piece of our advocacy philosophy is in supporting, not doing for.

Through regional chapters that remain locally governed yet connected through a statewide network, The Arc strives to remove external influence and ensure that every act of advocacy is rooted solely in people, families, and community - not funders, not contracts, not governmental systems. This commitment forms the foundation for our work as advocates.

Short biography

Georgia Edson is the Executive Director of The Arc Arapahoe, Douglas & Elbert Counties, a nonprofit organization that advocates for and supports people with intellectual and developmental disabilities and their families. She previously served as Chief Program Officer at Rocky Mountain Human Services and Division Director for Colorado's Regional Center system for people with I/DD. Georgia brings more than three decades of leadership in disability rights, systems reform, and person-centered program development. She holds a Master's in Social Work and has been deeply committed to advancing the least restrictive environment, informed choice, and meaningful inclusion since the mid-1990s, when she worked on person-centered deinstitutionalization efforts. She continues to champion equity, community belonging, and supports that honor each individual's voice and autonomy.

Marcelo Brasburg

Abstract

Cross-Border Protection for Older Adults Traveling to Maintain Family Ties

Ensuring adequate health protection for migrants has long been problematic, as many countries require minimum periods of legal residency to access public health services. While this already affects young and active individuals, the challenges are even greater for older adults. In numerous jurisdictions, long residency requirements also apply to non-contributory pension schemes, which in turn determine access to health coverage. For example, in Argentina the Universal Pension for Older Adults (PUAM) requires at least 20 years of residency for immigrants; without a pension, access to health services for older adults is severely limited. Additional barriers arise when older adults travel abroad. In most cases, there is no cross-border health protection, and private insurance companies frequently decline coverage for older persons due to age discrimination. This raises a central question: to what extent do Argentine and international legal instruments protect older adults who move temporarily or permanently across borders, particularly when maintaining family ties abroad is essential for their well-being? This proposal is to analyze Argentina's multilateral and bilateral social security agreements—which generally do not provide health coverage for travelling retirees—and examines whether current legislation, interpreted in light of the pro persona principle, could support broader cross-border protection. The premise is that existing norms offer insufficient safeguards, and that adapting national and international frameworks is necessary to ensure effective health protection for older adults abroad.

Short biography

Marcelo Brasburg is an Argentine lawyer specializing in Social Security Law, with over 20 years of professional practice. He teaches Social Security at the University of Buenos Aires and in a postgraduate program at the same institution. He is a frequent speaker at national conferences. He has authored multiple articles and book chapters on pensions, social security systems, and digital vulnerability.

Lucas Daniel Luppo

Abstract

From Protection to Autonomy: Implementing Supported Decision Making for Older Adults in Practice – Bridging Lived Experience and Public Policy in Mendoza, Argentina

This paper explores the practical implementation of supported decision-making models for older adults within public policy, focusing on the experience of Mendoza, Argentina. While international frameworks such as Article 12 of the CRPD have reshaped the understanding of legal capacity, significant challenges remain in translating these principles into practice. In particular, tensions persist between promoting autonomy and ensuring protection in situations involving vulnerability, cognitive decline, and risks of undue influence or abuse. Drawing on direct experience from the Directorate for Older Adults of Mendoza, this contribution examines how public institutions navigate these tensions in real-life contexts. It incorporates insights from lived experiences of older persons, illustrating how legal and policy frameworks affect everyday decision-making processes. The paper analyses concrete cases and policy interventions aimed at promoting autonomy while safeguarding rights, including interdisciplinary coordination between legal, social, and health systems. It also addresses institutional challenges such as resistance to change, lack of operational tools, and persistent paternalistic approaches. By bridging lived experience, human rights frameworks, and public policy implementation, this contribution offers practical and transferable lessons for advancing supported decision making models in ageing societies.

Short biography

Lawyer, Lucas Daniel Luppo Director, Directorate for Older Adults Government of Mendoza, Argentina

Parallel sessions - Thursday 9 July 2026

Session A - New and Developing Legal Instruments

Israel Doron & Silvia Perel-Levin

Abstract

From New York to Geneva: Reframing the International Debate on the Human Rights of Older Persons

Older persons remain the only major population group without a dedicated UN binding international human rights treaty. This paper traces the evolution of efforts to close this normative gap, examining the transition from the Open-Ended Working Group on Ageing (OEWG) in New York to the Human Rights Council (HRC) in Geneva. The analysis situates this transformation within a broader historical continuum: from the non-binding recognition of older persons' rights prior to 2010—through soft-law instruments such as the 1982 Vienna Plan, the 1991 UN Principles for Older Persons, and the 2002 Madrid Plan of Action on Ageing—to the rather more ambitious but ultimately stalled OEWG process (2010–2024). After more than a decade of debate and fourteen sessions, the OEWG concluded its work with a list of 11 options to be considered in a "non-exclusive manner" including an international legally binding instrument. General Assembly Resolution 78/324 of August 2024 urged relevant UN bodies to consider these recommendations. Consequently, in April 2025, the Human Rights Council adopted Resolution 58/13, establishing an intergovernmental working group to elaborate a legally binding instrument on the human rights of older persons. In this presentation it will be argued that this relocation—from the political environment of New York to Geneva's rights-based machinery— signals the reframing of ageing as a human rights issue rather than solely a social development issue or policy concern. It explores and tries to explain how this shift reflects power dynamics, advocacy strategies, and possibilities within the UN system.

Short biography

Prof. Israel (Issi) Doron, LL.B. (Hebrew University, Jerusalem);
LL.M. (American University, Washington D.C.);
Ph.D. (Osgoode Hall Law School, Toronto).
Prof. Doron is a full professor of gerontology, the Past Dean of the Faculty of Social Welfare and Health Sciences at the University of Haifa, and the Past President of the Israeli Gerontological Society. He specializes in the fields of law and ageing, social policy, human rights and ageism. Prof. Doron has written extensively on topics such as socio-legal construction of old age, human rights of older persons, and is the editor/co-editor of key books in the field. Finally, Prof. Doron is a social activist, and the founder of "Law in the Service of the Elderly" association.

Caoimhe Gleeson

Abstract

Lessons from Ireland - a critical analysis of the Assisted Decision-Making (Capacity) Act 2015

Ireland commenced the legislative process for what became the Assisted Decision-Making (Capacity) Act 2015 (herein the 2015 Act) in 2008. The 2015 Act was passed into Irish law in December 2015. Following a number of further amendments the Assisted Decision-Making (Capacity) 2015 Act, as amended by the Assisted Decision-Making (Capacity) (Amendment) Act 2022, was commenced on the April 27th 2023. The 2015 Act sets out how Ireland addresses decision-making by those whose capacity is in question, will shortly be in question and who lack decision-making capacity. The 2015 Act provides for both supported decision-making and substitute decision-making. In the case of substitute decision-making, the 2015 Act provides for the appointment of a decision-making representative (DMR) who can make decisions for the person in accordance with the scope of authority given by the Court in the Decision-Making Representation Order (DMRO). The Act further provides that any intervention under the 2015 Act must follow a number of guiding principles which includes only intervening when all other options have been considered and intervene in the least intrusive way. This presentation will evaluate the operation of the most restrictive tier of the decision supports under the 2015 Act. It will establish the legal scope of a DMRO and identify when a DMRO is most likely to be sought and by whom, and the scope of authority of a DMR. The presentation will draw together some of the emerging trends on the use of DMRs including the use of other less restrictive decision-making arrangements and the appointment of Panel DMRs. Panel DMRs are those decision makers who are independent of the applicant and of the person whom the decision-making arrangement applies. The presentation will consider emerging trends as to how the process is working so far with respect to adherence to the guiding principles, timeframes, costs and issues which may require further legislative scrutiny and amendment. In analysing all of the published decisions of the Irish Circuit Court to date relating to DMRs it will identify the challenges arising from the in-camera nature of legal proceedings and will consider data on how the voice of the person is supported in the process.

Short biography

Caoimhe Gleeson is General Manager for the National Office for Human Rights and Equality Policy at the Health Service Executive (HSE), the national organisation responsible for the delivery of publicly funded health and social care services in Ireland. She is also a Barrister at Law. Caoimhe has been involved in supporting the commencement and the implementation of the Assisted Decision-Making (Capacity) Act 2015 since 2015. She co-edited “The Assisted Decision-Making (Capacity) Act 2015- personal and professional reflections” with Professor Mary Donnelly, School of Law, UCC. She is a member of the ethics committee for the National Disability Authority research on ‘The journey from wardship to supported decision making’. Caoimhe is also a PhD law candidate in University College Cork. Her research is on the Assisted Decision-Making (Capacity) Act 2015 where she is critically analysing the operation of the substituted decision-making tier-the Decision-Making Representative.

Dagmar Brosey

Abstract

Measures in Germany to prevent abuse and violations of the right to self-determination

In Germany, there are two systems under the German Civil Code (BGB) for legal support and protection of adults. One is the statutory system, which includes court appointment (Rechtliche Betreuung); the other is the enduring power of attorney. Both systems apply the instrument of legal representation based on the principles of necessity and self-determination, including the obligation to consider the rights, will, and preferences of the person concerned. In addition, other measures are available to support adults without a legal representative, such as social law provisions or informal arrangements, which generally take precedence over and exclude statutory measures. The support measures in Germany do not affect the supported person's legal or mental capacity. It is assumed that adults have the capacity to make legally effective decisions and actions, even if they require support or have a legal representative. The 2023 lawreform aims to strengthen the right to self-determination and to further promote the paradigm shift in the practice of "Betreuung" towards supported decision-making and assistance with exercising legal capacity in accordance with Article 12 of the CRPD. To this end, existing legal principles concerning the observance of the wishes of the person concerned have been specified for "Betreuer", as well as for the courts, clarifying that these principles are mandatory for both "Betreuer" and courts in their judicial supervision. This presentation addresses the implementation of appropriate and effective measures to prevent abuse and violations of the right to self-determination. A current debate in Germany on reducing bureaucracy aims to simplify newly introduced reporting obligations for "Rechtliche Betreuer". This development must be critically assessed in light of Article 12 of the CRPD. The presentation explores which preventive measures are necessary across various interventions and discusses powers of attorney as well as measures without representation, highlighting the risks posed to users of these measures.

Short biography

Dagmar Brosey is Professor of Law Cologne University of Applied Sciences. She has been teaching and researching in the field of Law of "Betreuung" and Article 12 of the UN CRPD for many years. She works voluntarily as Chairperson of Betreuungsgerichtstag (Interdisciplinary association of "Betreuung") and was Co Chair of WCAC 2016. She is also member of the International Advisory Board (IAB).

Else Kolkman

Monitoring body CRPD and disability-related rights violationa

Abstract

The Netherlands Institute for Human Rights is the national human rights institute. The Institute conducts research, advises the government and parliament, provides public information, promotes human rights education, and reports to international human rights institutions.
The Institute is also the national Independent Monitoring Body to promote, protect and monitor the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD), as provided in article 33 par. 2 of the Convention. An important obligation provided in article 33 par. 3 of the CRPD is that persons with disabilities and their representative organizations should be involved and participate fully in the monitoring process. The Netherlands Institute for Human Rights in its monitoring role implements this obligation in various ways. During this presentation, the Institute presents how it fulfills this obligation. For example, the role of the institute's lived experience expert group of persons with disabilities.
In addition, the Institute judges in individual cases whether someone has been discriminated against at work, in education, or as a consumer. The Institute gives non-binding decisions. During this presentation, the Institute will present what this role entails. Also, some examples of cases will be given where the Institute has decided that the rights of persons with disabilities have been violated due to discrimination.

Short biography

Policy advisor at the Netherlands Institute for Human Rights.

Catriona Watt

Consent to deprivation of liberty in care arrangements is a holistic, multifactorial assessment in which the Adult can and should play a part

Abstract

This presentation is given by the solicitor who acted for the Mental Welfare Commission for Scotland in the landmark decision issued by the UK Supreme Court in May 2026. The Supreme Court overturned the famous, some may say infamous, decision it had made in the 2014 case of Cheshire West1. That case set the 'acid test' for deprivation of liberty and the need for Article 5 protections as being any person lacking capacity who was under continuous supervision and not free to leave, even if they appeared content with the arrangement. Out of the blue, an opportunity arose to test the Cheshire West decision by way of a Reference to the Supreme Court by the Attorney General of Northern Ireland who asked the court if a proposed revision to the region's Deprivation of Liberty Safeguards Code of Practice was compatible with Article 5 of the ECHR. That Reference created a surge of interest from all four UK jurisdictions as well as mental health charities and, in the case of Scotland, the Mental Welfare Commission for Scotland, which intervened in the case to ensure the Supreme Court understood that the Scottish legislation2 means a person's expressed feeling must be taken into account in decision-making.

In this presentation, as solicitor acting for the Commission in Supreme Court case, I will go through the important reasons for joining the proceedings and the arguments made to the court which resulted in the court adopting the Commission's submission where it states a paragraph 192: "The argument that, because some adults will find it difficult to communicate and express views and feelings about their placement, the views of no adults should be capable of vouching consent creates an arbitrary threshold and may lead to unnecessary and intrusive interference with the private lives of those adults with impaired mental capacity who are able to express views and feelings".

The presentation will explain the Commission's important role in monitoring and promoting the rights of those with incapacity or variable capacity. It will also examine the rationale for the Commission positing to the Supreme Court that to disregard the views and wishes of the adult because they are incapable of making the ultimate decision is to (i) undermine the purpose of Scottish legislation to include the adult in decision making as much as possible, and to (ii) place an arbitrary barrier in the way of the inclusion of that adult in a manner that professionals have determined to be in their best interests, going further than the ECtHR has gone in terms of Article 5 and gives insufficient weight to the balancing of the Adult's Article 8 rights.

Short biography

Solicitor United Kingdom

Session B - Assessment and Will

Tim Wuyts

Abstract

The assessment of mental capacity for the execution of rights and article 12 CRPD

Following a study of the academic network FL-EUR, many legal systems in Europe still employ the notion of 'mental capacity' to determine whether an individual can exercise their rights and duties, and give legal consent as a requirement for a valid contract. However, differences seem to exist in the definition and assessment of 'mental capacity' (Schuthof, Family&Law 2025). A Belgian study (Schweitser, Distelmans, and Stuy, Journal of Medical Ethics, August 2020) shows that even within the same jurisdiction, physicians assess 'mental capacity' differently. The notion could be applied in a time- and decision-specific manner or, for reasons of legal certainty, transformed into a legal incapacity that stamps a person. In addition, from the perspective of its consequences, the notion of 'mental capacity' can be approached in a black-or-white manner or a grey one, leaving more or less decision-making power to the person in question. Whatever the approach may be, according to the Committee's opinion expressed in the first general comment to the CRPD, the concept of mental capacity is highly controversial in and of itself in light of Article 12 CRPD. Following the Committee's opinion, it may not be used to determine a person's legal capacity, nor can it be used to assess the need for support to exercise legal capacity. New, non-discriminatory indicators of support needs are required to exercise legal capacity. Based on a legal comparative study of the FL-EUR reports added by empirical legal insights of other (national) studies I will show the differences in approach to 'mental capacity' in Europe and look within the European legal systems, the health care system (for instance, the value based health care approach or difference between decision-making capacity and mental capacity) and the doctrine for alternative approaches that would meet the requirements of article 12 CRPD.

Short biography

Tim Wuyts is an associate professor at the University of Hasselt, where he teaches courses in methodology, the law of persons and family law and healthcare law. He worked from August 2008 until June 2019 for the policy maker and drafted, among others, the Law of 17 March 2013 on the protection of vulnerable adults. His research is focused on reinforcement of autonomy of persons in a vulnerable situation. He is author of several publications on the law of persons, family law and aspects of healthcare law.

Ernest Burés

Abstract

Catalonia's Non-Judicial Legal Capacity Supports & Entity Role in Human Rights

Since September 2021, Spain's Law 8/2021 and Catalonia's Decree-Law 19/2021 have transformed legal capacity for people with disabilities, abolishing guardianship, curatorship and extended powers of attorney in favor of "assistance" and voluntary supports respecting will, autonomy and dignity.Pre-reform context: Substitute mechanisms limited rights; the new paradigm recognizes inherent capacity with tailored, voluntary aids.Current non-judicial tools: Catalonia prioritizes "assistance" (notarial deed or voluntary jurisdiction), preventive powers and advance directives, promoting dejudicialized, flexible supports.Entity's role in rights defense: Awareness campaigns for adults/elderly on tools (assistance, powers, directives) for autonomous planning. Training for professionals (social/health/admin/justice) to adopt the paradigm. Personalized advice: guiding families through notarial/formal processes, adapting to individual needs/wishes.Community impact: Through awareness, support, training and notary collaboration, we drive implementation, fostering cultural shift from protection objects to decision-making subjects. Non-judicial supports are now central, but require awareness/information efforts. Our entity empowers people, aids families, trains pros and upholds rights for inclusive communities centered on autonomy/dignity.

Short biography

Mr. Burés holds a degree in Political Science from Pompeu Fabra University in Barcelona and has experience in both local public administration and the private sector, in consultancy and management roles. He has worked on public planning processes, urban rehabilitation initiatives and several local action plans. He is currently part of Support-Girona’s Institutional Affairs area, where he is responsible for the Quality Management System, participates in various projects aligned with the Convention on the Rights of Persons with Disabilities, and drives the organisation’s public advocacy and institutional relations efforts. His work contributes to positioning Support-Girona as a key actor in the development of person-centred assistance and support models, with quality and rights-based standards framed within international guidelines and European disability policies.

Kaisa Näkki

Abstract

Legal and Medical Perspectives on Autonomy in Guardianship Proceedings for People with Dementia

This study explores how legal experts and physicians safeguard the autonomy of individuals with dementia during guardianship assessments and appointments in Finland. Using a qualitative approach, we conducted semi-structured interviews with 20 legal experts and 30 physicians, applying thematic analysis to identify key patterns in their practices. The findings reveal distinct professional emphases: legal experts prioritize 1) ascertaining the individual's views and 2) minimizing interference with autonomy. Legal experts are highly aware of the importance of autonomy and sometimes employ even extraordinary methods to ascertain the individual's views. However, despite valuing self-determination highly, legal experts occasionally adopt practices that compromise the autonomy of individuals with dementia. Physicians, in turn, focus on 1) ascertaining the individual's views, 2) supporting the realization of autonomy, and 3) providing accurate information for the legal process. Compared to legal experts, physicians tend to prioritize protection over autonomy. These insights highlight the tension between autonomy and safeguarding in guardianship decisions and underscore the need for interdisciplinary collaboration throughout the guardianship appointment process.

Short biography

Kaisa Näkki, LL.M., Trained on the Bench, is completing her interdisciplinary doctoral dissertation at the Center of Law and Welfare at the University of Eastern Finland. Her research combines law and neurology, focusing on the threshold for appointing legal guardians for individuals with dementia, particularly when the disease manifests in ways other than memory impairment. Näkki's study examines legal experts' and physicians' perceptions of the need for legal guardianship among individuals with dementia and the differences between these views. Previously, Näkki has worked as an attorney-at-law and served as a guardian ad litem in court proceedings concerning the appointment of legal guardians.

Pasco Coppens

Abstract

Practical and emotional dilemmas in the living will

The living will (enduring power of attorney) is commonly presented as an instrument of trust: trust in a partner, a child, or another close relative to act in the principal's best interests once capacity is lost. At the same time, the living will is expected to prevent misuse of powers and protect against financial or personal abuse. This inherent tension between trust and control lies at the heart of many practical and emotional dilemmas surrounding the living will.

Drawing on notarial practice, the speaker examines how these dilemmas materialise during the drafting and later functioning of living wills. Clients are often confronted with difficult questions: How much trust can realistically be placed in one person? Should children be treated equally, or does equal treatment undermine effective decision-making? How can safeguards be introduced without signalling distrust or damaging family relationships?

A recurring issue is that the living will transforms existing family relationships. Children or partners who previously stood in purely familial roles are placed in positions of authority and control. This shift may create new power dynamics, latent conflicts, or feelings of exclusion among other family members. Attempts to prevent abuse can further complicate these relationships and, paradoxically, increase tensions they are meant to mitigate.

The speaker also addresses the emotional burden placed on principals themselves. In seeking to prevent future abuse, they may feel compelled to differentiate between children, impose control mechanisms, or anticipate conflicts that have not yet surfaced. These choices are rarely purely rational; they are shaped by fear of dependency, loyalty, guilt, and uncertainty about future incapacity.

Finally, the contribution reflects on the limits of the living will as a preventive safeguard. Even carefully balanced arrangements may fail when relationships deteriorate or circumstances change, with cases taken from daily practice. The speaker argues that recognising the relational and emotional dimensions of the living will is essential for assessing its protective value and for understanding when additional or formal protective measures become necessary. By focusing on the interplay between trust, control and family dynamics, this contribution seeks to enrich the discussion on adult protection beyond technical legal design, highlighting the living will as a legal instrument that profoundly reshapes human relationships.

Short biography

Pasco Coppens is a Dutch candidate civil-law notary with a broad practice in family and inheritance law. In his professional work, he advises individuals and families on legal arrangements in situations where legal structure and emotional reality closely intersect. He pays particular attention to how personal relationships, trust, vulnerability and imbalance can influence legal decision-making. His approach emphasises careful translation of legal concepts into arrangements that remain workable. Through practice-based reflection, he explores the role of legal professionals in balancing autonomy, protection and relational impact in private law contexts.

Meredith Smith

Abstract

A Study of Judicial and Attorney Perspectives on Assessing Capacity in Guardianship Proceedings

Faculty at the Brody School of Medicine at East Carolina University and the University of North Carolina at Chapel Hill School of Government are conducting a study to assess the legal and practical strengths and weaknesses of guardianship proceedings in the State of North Carolina. The study gathers the perspectives of lawyers who represent clients in these proceedings and judges who preside over these proceedings as judges. In particular, the study examines the following questions, among others:

- Do attorneys and judges share the same understanding of the legal requirements for assessment and determination of capacity?
- What does each constituency think the law means concerning the required assessment?
- To comply with the law, what does an evaluation look like, according to each constituency?
- What is the perception of each group with regard to the efficacy of expert testimony and assessment concerning capacity?
- How is the medical evidence interpreted by each constituency?
- How is the medical evidence understood by the different constituencies?
- What is the perception of each constituency concerning the sufficiency of the evidence presented to establish capacity?
- What is the perception of each constituency concerning the sufficiency of the hearing process, both in theory and in practice, to establish capacity?

This session will describe the design and methodology of the study and present findings from judges and attorneys regarding how capacity is assessed and interpreted in guardianship proceedings. It will analyze points of convergence and divergence between these constituencies and identify practical take-aways for improving guardianship practice, including potential avenues for legislative change, training initiatives, and the development of written resources to support more consistent, informed capacity determinations.

Short biography

Meredith Smith is an associate professor with the University of North Carolina at Chapel Hill School of Government. Smith joined the School in 2013. Smith earned a B.A. in political science and Spanish, with distinction, from the University of North Carolina at Chapel Hill and a law degree, cum laude, from Georgetown University School of Law. Smith areas of scholarship focus on legal issues arising in the field of aging and adult services, with a particular focus on adult guardianship and adult abuse, neglect, and exploitation. Smith is the co-creator of the North Carolina Adult Protection Network. She is one of the primary professors in North Carolina who provides training and resources to North Carolina public officials, including judicial officials who preside over guardianship proceedings and adult social services attorneys, directors, and staff.

Session C - A Broader Perspective on Human Rights and Capacity

Sally Balch Hurme

Abstract

The State of Advance Health Care Planning in the United States

Advance care planning in the United States began in the 1970s. Our first laws gave people a way to express their wishes about the life-sustaining treatment they did or did not want in the event of a terminal condition. These early laws called "living wills" were limited to a narrow range of end-of-life decisions. Because of the shortcomings of this limited instruction to physicians, new laws need to be enacted. Policymakers next reshaped the use of another legal document: the power of attorney. New statutes had to be created to make them applicable for health care because an agent with common law powers can act only when the principal has capacity. An agent under a health care directive needs to act when the principal does not have capacity. The next transition was away from a legalistic focus on standardized language and execution formalities to the more conversational approach of advance care planning. The key elements of advance care planning are the patients' understanding of their overall medical condition and prognosis for both the short and long term; their understanding of treatment options and their; and the development of general goals for treatment. This advance care planning conversation between doctor and patient is written in a medical order that physically travels with the patient whenever they move from one care setting to another and from one medical specialist to another to provide continuity of care that conforms to the patient's expressed wishes. Although all our states have had advance directive laws for many years, less than half of Americans over age 50 have completed either a living will or health care power of attorney. The reasons people do not complete these directives include not getting around to it, difficulty in thinking about end-of-life issues, unsure about the process of obtaining one, thinking they are just for old or very sick people, or trusting that family will make the right decision. To address the issues surrounding the public's use of advance directives, we have a new model Health Care Decision Act. It seeks to reduce execution barriers, have a clearer description of when the document goes into effect, and gives the option to provide specific instructions for mental health care. Instead of a focus on what types of treatment the person may or may not want, the new form encourages them to give information to be used by agents and providers to make decisions based on values when unanticipated situations arise.

Short biography

Sally Balch Hurme is an elder law attorney who retired after decades advocating for surrogate decision making, advance care planning, caregiving, and elder abuse. Since retiring, Hurme has consulted on guardianship issues with the National Guardianship Association, Center for Guardianship Certification, U.S. Department of Justice, National Adult Protective Services, and New York-Presbyterian Hospital. She serves as the chair of the National Guardianship Network, a collaboration of national organizations that focus on enhancing guardianship policies and practices. Hurme is the best-selling author of the award-winning ABA/AARP Checklist series that are practical guides to the legal matters encountered by individuals in retirement, their caregivers, and their families. Hurme received her law degree cum laude from the Washington College of Law at American University, Washington, DC and her bachelor's degree from Newcomb College, Tulane University, New Orleans, LA.

Marie-Laure Luykx

Abstract

Power and Duties in Adult Protection: An FL-EUR Comparative Analysis under Article 12 CRPD

The presentation explores a comparative analysis of how European jurisdictions within the FL-EUR network are implementing the paradigm shift from substituted to supported decision-making required by Article 12 CRPD and clarified in General Comment No. 1. Drawing on Question 25 of the FL-EUR questionnaire and 28 national reports, it examines the powers and duties of representatives and support persons, the models of decision-making adopted, the applicable criteria, and the existence and regulation of remuneration. Recent Concluding Observations (2023-2025) issued by the CRPD Committee reaffirm the obligation of State Parties to replace substituted regimes with supported decision-making and to guarantee equal recognition before the law. Yet the analysis demonstrates that, despite formal adherence to tailor-made approaches, broad mandates and residual substitution remain widespread, particularly in financial and medical matters. Hybrid decision-making models persist, reflecting the ongoing struggle to strike a balance between autonomy and protection. Across jurisdictions, decision-making criteria continue to rely predominantly on a 'best interest' standard, though some systems require active reconstruction of the adult's will and preferences. Duties of representatives and support persons typically involve informing, consulting and engaging the adult, maintaining regular contact and reporting to supervisory authorities. A smaller number of systems further impose relational or restorative duties, aligning more closely with the CRPD's principles of proportionality, subsidiarity, and (relational) autonomy. Remuneration regimes vary considerably. While several jurisdictions grant representatives, and in some cases, support persons a right to payment, others restrict remuneration to professional actors or exceptional circumstances. Overall, the study finds a gradual but incomplete transformation: European jurisdictions increasingly recognise persons with disabilities as autonomous rights-holders, yet continue to reconcile autonomy with protection through diverse and evolving legal mechanisms.

Short biography

The author holds a Bachelor of Laws from Hasselt University and two Master's degrees from KU Leuven: a Master of Laws with specialisations in Criminal Law and Private Law, and a Master of Criminology with a focus on Legal Psychology. She is currently pursuing a PhD at Hasselt University, in collaboration with the University of Antwerp. Her doctoral research examines decision-making models for adults with disabilities and seeks to develop a legal framework that strikes a just and fair balance between autonomy and protection in light of Article 12 CRPD. Her main fields of expertise include disability law, family and persons law, and human rights law.

Benoît Eyraud

Abstract

The slow but inevitable recognition of support for legal capacity in disability policies: the case of France

Public policies concerning disability inclusion and those concerning legal protection of adults have long been separate. With the CRPD and its Article 12, a more integrated approach to these public policies is essential, leading to the development of new tools to support legal capacity. This contribution examines how disability stakeholders have adopted legal protection, which has now prompted the National Disability Conference to propose a reform of the provisions relating to legal protection in order to develop measures supporting legal capacity. This contribution draws on the participation of the Capdroits initiative in the interministerial working group tasked proposing reform priorities.

Short biography

Benoît Eyraud is sociologist. He wrote different books on legal protection in France and has developed Capdroits initiative with persons directly concerned by guardianship.

Toru Morichi & Sieh-Chuen Huang

Abstract

A Study on the Verification of Legal Capacity and Supported Decision-Making in Japan and Taiwan

Article 12 of the Convention on the Rights of Persons with Disabilities stipulates the right to equal recognition before the law, within which the enjoyment of legal capacity by persons with disabilities is indicated. This study, based on General Comment No. 1 of the Committee on the Rights of Persons with Disabilities, examined social workers and adult guardians in Japan and Taiwan regarding their understanding and awareness of the exercise of this legal capacity and the related concept of supported decision-making. This was assessed through 26 questions covering: “level of understanding”, “level of importance”, “level of feasibility”, and “level of awareness”.

The Japanese survey was conducted face-to-face during a seminar organised by the Japan Network of Supported Decision Making in February 2020, while the Taiwanese survey was conducted online with PAPID stakeholders in October 2022. The Japanese survey yielded data from 78 respondents, and the Taiwanese survey from 52 respondents. For these survey data, t-tests were performed for each question to examine differences in understanding and perceptions based on the respondents' age, experience supporting persons with disabilities, and occupational differences in both Japan and Taiwan.

Short biography

2022-10 – 2022-11 Visiting Scholar, College of Law, National Taiwan University
2019-08 – 2019-09 Visiting Scholar, College of Law, National Taiwan University
2013-10 – (Present) Assistant Professor, Division of Disability Science, Faculty of Human Sciences, University of Tsukuba
2013-04 – 2013-09 Assistant Professor, Department of Psychology and Welfare, Faculty of Life Sciences, Ibaraki Christian University
2012-04 – 2013-03 Assistant Professor, Department of Human Welfare, Faculty of Life Sciences, Ibaraki Christian University '
2011-04 – 2012-03 Joint Researcher, Institute of Social Work, Japan College of Social Work
2007-04 – 2011-03 Researcher, Planning and Research Department, Nozomi-no-Sono National Comprehensive Facility for Persons with Severe Intellectual Disabilities
2006-04 – 2007-03 Researcher, Welfare Education Centre, Faculty of Welfare Studies, Josai International University

Session D - Special panel 'Empowerment and Protection of Older Adults in the Netherlands – Research conducted by the STRIDE-Consortium'

Freya Augusteijn

Abstract

Involving Older Adults under Guardianship in Decision-Making: Perspectives of Legal Representatives

Background
Autonomy is increasingly recognized as a central principle in adult guardianship law and policy. International human rights standards, particularly Article 12 of the UN Convention on the Rights of Persons with Disabilities, emphasize the importance of supporting individuals in exercising legal capacity and ensuring that their will and preferences are respected. However, little is known about how these principles are implemented in practice for older adults subject to guardianship measures.

Objectives
This study examines (1) the extent to which legal representatives involve older adults under a protective measure in decision-making, (2) the extent to which they consider the older person's wishes and preferences when making decisions, and (3) perceived barriers to such involvement.

Methods
Data were collected through a questionnaire administered to 319 legal representatives of older adults subject to adult guardianship in the Netherlands. Drawing on compliance theory, the survey explored representatives' attitudes towards autonomy and their perceived opportunities to involve older adults in decision-making.

Results
The findings show strong normative support for older adults' autonomy. Most respondents agreed that older adults should be involved in decisions affecting their lives and should continue to make decisions themselves whenever possible. At the same time, respondents reported limited opportunities to realize this ideal in practice. In particular, they viewed many older clients as having restricted capacities to understand information, weigh options, and participate actively in decision-making processes, often due to cognitive decline.

As a result, representatives reported relying more frequently on approaches that respect older persons' wishes and preferences than on approaches aimed at facilitating direct participation in decision-making. Common strategies included discussing decisions with clients, considering their values, cultural background, and life history, and consulting other professionals.

Conclusions
The findings suggest that, in the context of older adults under guardianship, autonomy may often be realized through respect for wishes and preferences rather than through direct participation in decision-making. This raises important questions about how autonomy is conceptualized in law and practice and highlights the need for a broader understanding of autonomy in ageing and adult guardianship.

Short biography

Freya Augusteijn is a criminologist and empirical legal researcher working at the department of Private Law of the Vrije Universiteit Amsterdam.

Eefje Sizoo

Abstract

Towards Inclusive Decision-Making in Nursing Homes: Participatory Action Research with Residents with Decision-Making Disabilities, Relatives and Health Care Professionals

Introduction: Up to three-quarters of older people residing in nursing homes, hereafter referred to as residents, have cognitive impairments. These impairments often result in decision-making disabilities, which challenges residents to actively participate in decision-making regarding their well-being, care, and treatment. Residents may need tailored support to participate in making specific decisions. To develop a tailored approach, it is essential to involve stakeholders such as residents, their relatives, and health care professionals in the process.

Objective: In two nursing homes, we employ participatory action research to co-create an inclusive decision-making support approach with residents, their relatives and health care professionals.

Methods: We conduct participatory action research in two phases. In the *orientation phase*, we interviewed residents, relatives and health care professionals. We asked residents how they prefer to be involved in decision-making regarding their wellbeing, care, and treatment. Relatives and health care professionals were asked about their perceptions, ideals and needs regarding decision-making with residents. Interviews were thematically analyzed. Furthermore, we formed action groups with residents, relatives, health care professionals, and researchers.
In the *action phase* two action groups co-create decision support approaches in cycles of development, action & observation and reflection & evaluation, building on the insights gathered in the orientation phase.

(Preliminary) Results: In the *orientation phase*, residents, relatives and healthcare professionals all underscored the importance of the resident being known by their decision-making supporters. Residents highly valued making their own decisions and even regarded decisions taken with intensive support from relatives or professionals as their own decisions. Health care professionals described various strategies to support residents.
The *action phase* started in November 2025 and is ongoing until May 2026; preliminary results will be shared at the symposium.

Conclusion: Embedded in the long-term care setting, this participatory action research helps to tailor decision-making support to residents' needs and preferences and has the potential to lead to meaningful and sustainable solutions.

Short biography

Eefje Sizoo MD, PHD is trained as an Elderly Care Physician and currently working as assistant professor and teacher in medicine for older people at Amsterdam UMC. She leads a research line focusing on optimizing decision making in medicine for older people. A

particular area of interest to her is how people with decision making disabilities as a result of cognitive decline can be optimal included in decisions regarding treatment, care and everyday life. Eefje works close together with health care professionals, older people with long-term care needs and their relatives and representatives in the University Network of care for Older people (UNO) Amsterdam, an academic collaborative center of Amsterdam UMC and 23 home and long term organizations. She is a member of the STRIDE consortium, which aims to optimize legal support and protection measures.

Fiore Schuthof

Abstract

Adult Guardianship and Human Rights in Europe: Between Rights and Realities

Across Europe, adults who are considered unable to make certain legal decisions may be placed under guardianship. The UN Convention on the Rights of Persons with Disabilities (CRPD) and the European Convention on Human Rights (ECHR) have developed human rights standards aimed at protecting autonomy and strengthening procedural safeguards in the context of adult guardianship.

This presentation draws on a completed doctoral dissertation examining how 28 European jurisdictions align with these human rights standards, focusing on legal capacity, will and preferences, and procedural safeguards. What lessons do these findings offer for human rights bodies and for countries considering legal reform? The research draws on country reports from the Family Law in Europe (FL-EUR) network and includes in-depth case studies of Germany and Ireland - two countries that recently reformed their guardianship systems in different ways. Through 30 interviews with German and Irish judges, guardians, lawyers, and policy advisers, the research also explores how legal rules operate in everyday practice.

The findings show that several European jurisdictions have moved from all-or-nothing approaches to tailored limitations of legal capacity. Yet the CRPD Committee's strict interpretation - that legal capacity must never be limited - is rarely fully implemented across Europe. Even where legal capacity limitations are formally prohibited, limitations can reappear through indirect mechanisms. The research suggests that the CRPD Committee's strict position may be difficult to apply in complex, real-world contexts. The ECtHR's 'last resort' approach seems more realistic. Interviews in Germany and Ireland further showed that individuals formally recognised as having legal capacity are not always treated as such, as healthcare and financial professionals may prefer communicating with guardians rather than with the individuals themselves.

Concrete lessons from the research include decoupling guardianship from legal capacity limitations (Germany, Norway), using social reports alongside medical assessments (Austria, Germany, Spain), and involving independent advocates during guardianship procedures (Ireland). These examples are not one-size-fits-all and should be adapted to national contexts, but they show what countries can learn from each other.

Short biography

Fiore Schuthof is a postdoctoral researcher at Vrije Universiteit (VU) Amsterdam. She obtained her PhD from Utrecht University, where her doctoral research focused on adult guardianship from a comparative and international human rights law perspective. As a member of the multidisciplinary STRIDE research consortium, she contributes to developing recommendations for a future-proof system of legal support and protection measures for older persons in the Netherlands.

Rieneke Stelma-Roorda

Abstract

Reimagining Empowerment and Protection in an Age of Socio-Demographic Change

In an ageing society, the need for an effective legal framework to support and protect older persons with declining cognitive abilities is becoming increasingly urgent. Socio-demographic developments, such as population ageing, smaller and more geographically dispersed families, and growing pressures on care and support systems, affect the availability of both informal and formal support. This presentation builds on a Dutch study co-authored with Femke de Kievit and Wendy Schrama, which develops a new perspective on legal support and protection in the Netherlands by moving beyond the traditional focus on court-ordered adult guardianship measures. Instead, the system is conceptualised as a broader, layered framework that also encompasses informal support, automatic or ex lege representation, and voluntary instruments, such as continuing powers of attorney.

Central to this perspective is the idea of a "funnel" structure, in which less intrusive and more accessible forms of support are prioritised, reserving formal legal measures as a last resort. In practice, most support is provided informally within family and social networks. While this offers clear advantages, including accessibility and alignment with personal preferences, it also raises concerns, in particular the risk of abuse and the absence of formal oversight. These strengths and vulnerabilities highlight the need for a more structured approach to legal support and protection. In this light, four key conditions for a future-proof system are suggested: financial and staffing sustainability, a balanced allocation of responsibilities between the state and families, accessibility in light of citizens' capacities, and compliance with human rights standards, particularly the UN Convention on the Rights of Persons with Disabilities.

Against this background, several preliminary directions for reform are outlined, including strengthening less intrusive forms of support, enhancing safeguards against abuse, and improving the accessibility and regulation of voluntary instruments. Reinforcing these layers is essential to reduce reliance on formal measures and to ensure that legal support and protection remain sustainable, accessible, and respectful of the autonomy and dignity of older persons.

Short biography

Rieneke Stelma-Roorda is assistant professor in Family Law and the Law of Persons at the Vrije Universiteit Amsterdam. Her research focuses on the legal support and protection of adults with impaired decision-making capacity. She is project manager of the Dutch NWA-ORC STRIDE project Toward a new balance in empowerment and protection of the elderly In addition, she is actively involved in several international networks, including FL-EUR and the International Guardianship Network. In the academic year 2026-2026, she holds one of the rotating chairs of the Tijdschrift voor Privaatrecht at the universities of Hasselt and Antwerp (Belgium).

Session E - Developmental Disabilities and National Initiatives

Xan Koster

Abstract

Human Rights and Legal Representation: Moving from Protection to Autonomy

When the Netherlands ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2016, it issued an interpretative declaration on article 12 (equal recognition before the law) that limited its commitment to the paradigm shift toward autonomy and supported decision-making. As a result, the country has largely maintained a protective approach. Today, more than 390,000 people in the Netherlands are under legal representation, through guardianship, administration, or curatorship. Often losing control over life decisions such as financial management. This approach has drawn sharp criticism from the UN Committee when The Netherlands were reviewed in 2024. To address these concerns, Ieder(in) initiated a study in late 2025 to explore a central question: How can Dutch practices on legal representation be transformed to comply with the CRPD and promote autonomy for persons with disabilities? Methodology The research combines multiple perspectives:

- Desk research on Dutch practice, international law, and human rights standards
- Comparative analysis with Ireland as a reform-oriented reference model
- Qualitative interviews with persons with disabilities and professionals (guardians, administrators, curators, and policymakers)
- Surveys targeting both stakeholder groups Emerging Insights During the conference the results of this study will be presented. Results such as aligning practice with human rights principles cannot wait for legislative reform. Practical changes such as introducing supported decision-making and a paradigm shift from a ‘best interest’ approach to one based on ‘will and preference’ among all involved professionals and ministries should begin now, to bridge the gap between current practice and CRPD standards.

Short biography

Xan Koster is a policy officer at Ieder(in), the Dutch national advocacy organization for people with disabilities and chronic illnesses. Specializing in human rights and anti-discrimination, Xan works on implementing the UN Convention on the Rights of Persons with Disabilities (CRPD) and advises on supported decision-making, autonomy, and combating ableism. Driven by a strong belief in equality and inclusion, they are committed to ensuring that every person can live according to their own will and preferences, rather than imposed standards. With a background in social care, mental health, and activism, they contribute through research, training, and public speaking to promote systemic change and equal rights for all.

Karel Lach

Abstract

Between Law and Practice: Assessing the Implementation of Article 12 CRPD in the Czech Republic

The Czech Republic currently faces a significant gap between a legal framework with considerable potential and its practical implementation. The UN Convention on the Rights of Persons with Disabilities (CRPD) has been part of the Czech legal order since 2009, and in 2024 the country reformed its system of legal capacity in an effort to move away from substituted decision-making and aligning domestic law with the Convention. The most significant changes included the abolition of full deprivation of legal capacity and the introduction of voluntary support measures.

In practice, however, these reforms have not led to a substantial strengthening of the autonomy of persons requiring support in decision-making, raising the questions as to whether the Czech Republic effectively fulfills its obligations under the CRPD, in particular Article 12 on equal recognition before the law.

In 2018, the Public Defender of Rights (Ombudsman) was designated as the independent national monitoring mechanism under Article 33(2) of the CRPD. In this role, the Ombudsman assesses the State's compliance with its obligations under the Convention.

In 2025, the Ombudsman published a research report evaluating the implementation of selected CRPD provisions (Articles 5, 12, 19 and 27) using human rights indicators recommended by the Office of the UN High Commissioner for Human Rights and the EU Agency for Fundamental Rights. Article 12 received the lowest score, reaching only 28 % of the established criteria. The findings reveal, inter alia, the absence of a comprehensive strategy for a full transition from substituted to supported decision-making, frequent restrictions on the exercise of fundamental rights resulting from limitations of legal capacity, and a persistent preference of courts for guardianship: since 2014, approximately 80 % of cases have resulted in restrictions of legal capacity, while other forms of support were applied in only 20 % of cases.

The paper presents these findings from the perspective of the national CRPD monitoring body, identifies key shortcomings in the implementation of Article 12, and outlines ongoing and planned reforms in the area of decision-making support. The Czech experience illustrates how human rights indicators can be used to assess the gap between law and practice and offers relevant insights for States facing similar challenges or preparing reforms to strengthen compliance with Article 12 of the CRPD.

Short biography

Karel Lach is a legal adviser specialising in the rights of persons with disabilities. He graduated in law at Masaryk University and worked for four years at the NGO League of Human Rights, where he focused on legal capacity and supported decision-making. For almost three years, he has been working at the Office of the Public Defender of Rights (Ombudsman) in the Department for the Protection of the Rights of Persons with Disabilities, which serves as the national CRPD monitoring mechanism. His work primarily focuses on the implementation of

Article 12 CRPD. He is also involved in cases concerning involuntary hospitalisation in psychiatric facilities, the supervision of public guardianship based on complaints from persons under guardianship, and systematic visits to institutions where persons with disabilities reside.

Taeyoung Yoon

Abstract

Policy Challenges to Enhancing Accessibility for Persons with Developmental Disabilities

The importance of accessibility for persons with disabilities has long been recognized and cannot be overstated. However, as society rapidly transitions into an intelligent information society, digital disparities have brought even greater attention to the accessibility needs of people with developmental disabilities. Intelligent services offer many positive functions—they enhance access to new knowledge and create new opportunities—and are becoming indispensable in an advanced information society. Yet, the increasing prevalence of internet- and mobile-based services has also intensified problems of information inequality and social exclusion, especially among older adults, persons with disabilities, and individuals who lack digital literacy. Such digital divides in access to information are directly linked to complex issues, including infringement on the right to a dignified life and the deprivation of political, economic, social, and cultural participation. For this reason, countries around the world are actively reforming their legal and institutional frameworks to close these gaps. In Korea, laws have been revised to impose greater obligations on service providers to prevent digital disparities, while local governments are now mandated to expand digital education programs. However, it remains necessary to critically examine whether current laws and policies genuinely reflect the needs of people with developmental disabilities or whether they are shaped primarily by the perspectives of non-disabled policymakers, resulting in impractical, desk-driven regulations. To address this question, a survey was conducted with 500 guardians of individuals with developmental disabilities—such as parents and legal guardians—and 1,000 members of the general public. The survey assessed satisfaction with the level of accessibility for people with developmental disabilities in Korea across areas such as public services, banking, kiosks, retail stores, and transportation. It also gathered opinions on what types of support are needed to better guarantee accessibility. The results revealed significant perceptual gaps between what persons with disabilities and their guardians experience directly and what the general public assumes. This presentation will share these findings and propose a vision for how legal and policy frameworks should be shaped moving forward.

Short biography

My main research and teaching interests include civil law, consumer law, legal issues related to an aging society, and adult guardianship, including decision-making support for persons with limited capacity. Over the years, I has led and contributed to numerous research projects focused on protecting vulnerable groups—such as older adults and persons with disabilities—within civil-law frameworks. Since 2021, he has also been the principal investigator of a major long-term research project funded by the Social Science Korea (SSK) program, the largest national social-science initiative supported by the National Research Foundation of Korea, which will continue for a ten-year period.

Yukio Sakurai

Abstract

Adult Safeguarding Law in Comparative Perspective

In the context of population ageing and evolving international standards for the rights of persons with disabilities, many countries are seeking to develop comprehensive legal frameworks to protect adults with impaired decision-making capacity. This paper provides a comparative analysis of adult safeguarding law, focusing on Ireland's Assisted Decision-Making (Capacity) Act 2015 and the Adult Safeguarding Bill 2024. These legislative developments are examined within the broader institutional and normative contexts of common law jurisdictions, highlighting an emergent integrated model of safeguarding that combines supported decision-making, proactive responses to economic abuse, multi-agency coordination, and judicial oversight. The study demonstrates that this integrated approach represents a paradigm shift from the traditional guardianship model. Rather than emphasizing unilateral decision-making or restrictive intervention, the framework balances self-determination with multilayered support and protection, ensuring both autonomy and accountability for vulnerable adults. Comparative analysis further reveals the strengths of Ireland's rights-based system and identifies key challenges in Japan, where legal frameworks remain fragmented, oversight mechanisms are limited, and professional support infrastructure is underdeveloped. The research underscores several policy implications for reform. These include the establishment of a coherent, unified legal framework, the creation of a neutral and independent safeguarding authority, and the development of sustainable mechanisms for training, certifying, and retaining qualified support personnel. By situating adult safeguarding within both legal and ethical dimensions, this study contributes to understanding how integrated frameworks can enhance protection, autonomy, and social accountability. The findings provide practical guidance for jurisdictions seeking to modernize and harmonize their laws, offering a pathway toward safeguarding systems that are both rights-based and operationally effective.

Short biography

Doctor of Laws, Researcher on Elder Law, Healthcare Policy, and Supported Decision-Making Practices.

Session F - Wills, Living Wills and Marriage

Torbjörn Odlöw

Abstract

Lasting powers of attorney and the retreat from public oversight in Sweden

The presentation examines the 2017 Swedish Act on Continuing Powers of Attorney as a turning point in adult protection law, where the state retreats from supervision of financial management. Starting from the historical move from purely family based guardianship to the publicly supervised system introduced in the 1924 Guardianship Act, I show how experiences of neglect and abuse have repeatedly led to tighter control of representatives' handling of assets – and how the new regime breaks with that logic. The core of the analysis is the design, and deliberate under design, of oversight in the Swedish CPA Act. The Act is built on private ordering: the principal may, but need not, appoint an external reviewer; failing that, oversight is pushed onto close relatives, who may request accounts at most once a year and have no clear duty to act. Public authorities have no general duty to register mandates, to check that the attorney is suitable, or to review accounts ex officio. The Chief Guardian may demand information or restrict the mandate only if third parties alert the authority to suspected abuse. In practice, substantial parts of vulnerable adults' finances can therefore be managed for years under a CPA without any proactive public scrutiny. A second focus is the interaction between future mandates and the new statutory authority of close relatives to represent adults in everyday financial matters. Together, these reforms shift day to day control back to the family, while preserving the most resource intensive supervisory tools for traditional guardianship alone. Drawing on foreign experience with enduring powers of attorney and Council of Europe recommendations, I argue that this light touch model underestimates the structural risks in intra family financial relations and conflicts of interest. It also sits uneasily with the safeguards required by Article 12 CRPD, which call for measures to prevent abuse where legal capacity is exercised with support. The paper concludes that Swedish law now strikes the balance between autonomy, simplicity and protection perhaps too far in favour of informality and low public cost. The shift from publicly controlled curatorship to privately controlled power of attorney risks recreating the very problems that historically justified strong public supervision.

Short biography

Torbjörn Odlöw (LLM, LLD) is a Senior Lecturer in Private Law at the Department of Law, School of Business, Economics and Law at the University of Gothenburg. He was Vice-Head of Department and Director of Studies at the Department of Law between 2015 and 2018 and he was Director of Postgraduate Studies at the Department from 2008 to 2012. Torbjörn Odlöw teaches courses in private law and family law at the University of Gothenburg. Odlöw is engaged as a presenter and lecturer on matters of adult guardianship law by both public and private organisations, such as the Swedish Association of Chief Guardians, County administrative boards (responsible for auditing Chief Guardians) and the Mental Disability Advocacy Centre (now Validity). Odlöw is also regularly engaged as an expert on Swedish adult guardianship law in court cases before local courts as well as the Supreme Court of Sweden, in public investigations and by private associations such as the Swedish Bankers' Association.

Hélène Goret

Abstract

The Belgian Continuing Power of Attorney: Where Autonomy, Trust and Protection Meet

With more than half a million registrations across Belgium, the zorgvolmacht (procuration extra-judiciaire) has become a cornerstone of preventive legal planning. Built on the principles of subsidiarity and proportionality, it enables adults to anticipate incapacity by appointing a representative for patrimonial and personal matters. Although rooted in Articles 489 et seq. of the old Belgian Civil Code and the general law of mandate, its significance is profoundly human: the CPA operates where autonomy, trust and vulnerability meet. Its effectiveness relies on a few essential formalities. Registration in the Central Register of Mandates is required for the proxy to survive incapacity, and any modification or revocation only takes effect upon registration. The proxy must be in writing; where powers involve real-estate transactions, gifts or changes to a nuptial agreement, a notarial deed is mandatory. Although extra-judicial in nature, the judge of the peace retains residual supervisory powers and may intervene in cases of abuse or inadequacy. Beyond these basic formalities, careful drafting is indispensable. Conflicts of interest can be anticipated through the prior designation of an ad hoc representative, while a confidant may provide light human-scaled oversight. Activation can be immediate, event-based or contingent on medical confirmation of incapacity. Beyond these core elements, the CPA may also include an estate-planning dimension. Donation clauses benefit from explicit and precise wording, reflecting the need for clarity whenever patrimonial transfers are contemplated. The CPA also operates within family dynamics. Its success depends on relationships of loyalty and care—between partners, between children, or within blended families navigating delicate trust. When several children are appointed, transparency can act as a safeguard: a clause may allow ordinary acts to be carried out individually, while major decisions are taken jointly. Clear criteria reduce conflict and reassure third parties. Drafting is therefore haute couture: each clause must reflect the grantor's intentions, the representative's responsibilities and the dignity of the person whose voice may one day fall silent. This contribution analyses the Belgian model as both a legal instrument and a human practice, showing that meaningful protection arises not only from rules but from how we translate them into the lives of those we assist.

Short biography

Hélène Goret is a notary and partner at De Cock & Goret, Associated Notary in Overijse (Belgium), and an Invited Professor at the Vrije Universiteit Brussel, where she teaches notarial deontology and continuing powers of attorney. She also contributes to courses on estate settlement. She is a member of the Committee for Study and Legislation and serves on the disciplinary board for the notarial profession. Her research and publications focus on care proxies, family property law and notarial deontology, and she is a member of the editorial board of the Notarieel en Fiscaal Maandblad. She is also co-holder of the Gommaar Van Oosterwijck Chair 2026. Her work combines doctrinal analysis with human-centred practice, with particular attention to autonomy, protection and vulnerability.

Sieh-Chuen Huang & Yi-Kai Chiu

Abstract

New Financial Supported Decision-Making Practice for People with Dementia in Taiwan

Following the 2022 Concluding Observations under the Convention on the Rights of Persons with Disabilities (CRPD), Taiwan began exploring supported decision-making in the financial sector for persons with dementia. The key challenge is to avoid excessive protection that results in de facto asset freezing and to preserve the individual's right to use their own property. In January 2023, the banking industry issued the Reference Practices for Providing Services to Persons with Dementia, creating Taiwan's first third-party support mechanism at bank counters. A supporter—without legal status such as a guardian—may assist in information gathering, evaluation, and communication of intent. Banks must assess capacity case by case and may refuse transactions only when decision-making is clearly insufficient despite support. In August 2023, the trust industry issued a more detailed guideline with three key features: a registry system for supporters, a definition of support as assistance (not substitution), and a limitation to trusts related to asset management purposes. These practices aim to safeguard both autonomy and financial security. From a comparative-law perspective, the emerging Taiwanese model resembles light supported decision-making systems in common law jurisdictions, such as U.S. supported decision-making agreements, Ireland's decision-making assistants, and Victoria's supportive attorney. Supporters in these systems do not hold representation or consent authority but facilitate understanding and decision-making, aligning with General Comment No. 1 of CRPD Article 12. Although Taiwan's model is not yet legislated and remains limited in scope, it offers a pragmatic alternative to guardianship and may influence future reforms in adult capacity law.

Short biography

Professor Sieh-Chuen Huang is a professor of law and currently serves as the Vice Dean of the College of Law at National Taiwan University (NTU). She received her LL.B. from NTU, and her LL.M. and Ph.D. from Hokkaido University in Japan. Her research interests include family law, adult guardianship, trusts and estates, empirical legal studies, and legal analytics. In 2016, she served as a member of the International Advisory Board for the 4th World Congress on Adult Guardianship, held in Erkner, Germany. Her major publications include "Adult Guardianship in Taiwan: A Focus on Guardian Financial Decision-Making and the Family's Role," 9 Journal of International Aging Law & Policy 127–150 (2016), and "Family Law in Taiwan: Historical Legacies and Current Issues," 14(2) NTU Law Review 157–218 (2019).

Hans ter Haar

Abstract

How to terminate a last will during a testator's life

In practice it sometimes happens that someone with dementia is manipulated to make a last will. In the Netherlands, the notary has an important task to prevent that a last will is made by someone who is not able to express his will independently. Unfortunately, it still occurs that someone is manipulated to make his last will and the notary did not notice he was actually not able to do so.

Suppose that immediate family of the testator or his trustee finds out that this has happened and they want to contest the will. What can they do? Because the will has not yet come into effect (the testator is still alive), it is assumed it can not be terminated because of the lack of testamentary capacity of the testator. After all, there are no heirs yet to summon. The testator who is assumed not to be sound of mind, is no longer able to revoke the will. If there is a trustee, the question remains to what extent it is his responsibility to challenge the will. It is clear that the will can be challenged as soon as the testator has died. Those who have lost rights or expectations under the will would then have to do so. In the Netherlands, it is possible to challenge the will because of lack of legal capacity at the time it was made. However, it is not possible to contest a last will based on undue influence. The reason of this impossibility is that the legislator feared a huge workload for the judges if this were possible. Moreover, even if it is known that the last will was made, it can still take years for a person with dementia to die. As time passes, it becomes increasingly difficult to prove that the will was made under influence of mental disorder. In the meantime injustice persists and becomes increasingly difficult to undo.

Therefore, case law shows examples of wills that are declared null and void even though the testator has not died. Article 1 of the first Protocol (right to peaceful enjoyment of property) and art. 8 of the ECHR (private and family life) play an important role in this case law. The question is if new legislation can be a (better) solution to the problem. Should there be a legal option that opens the possibility to declare a will null and void during the testator's lifetime, based on mental incapacity? And if so, what should such an arrangement look like?

Short biography

Hans ter Haar is University teacher Notarial Law at the Rijksuniversiteit Groningen. Before he started his teaching- and research career in Groningen, he was a candidate-notary for several years. His thesis is about minors and the care of their assets. Most of his research publications are about family- and inheritance law. Hans is also involved in the topic of adult protection.

Daphne Franks

Abstract

Predatory Marriage: A Hidden Crime

I am a 2025 Churchill Fellow, investigating civil marriage in the Netherlands, Canada and France, with particular interest in the practical application of what is meant by capacity to marry and in safeguarding vulnerable adults at risk of predatory marriage. Predatory marriage is where a younger person, often claiming to be a carer, marries an older, vulnerable person with the goal of inheriting their estate.

Our family's lived experience of my mother suffering a predatory marriage when she was 91 with advanced vascular dementia has led to our ten-year campaign for reform. The campaign has sought to expose systemic weaknesses in both the law and civil marriage procedures, focusing on improving systems rather than attributing blame to individuals or professions.

Significant progress has been achieved. In 2018 our MP, Fabian Hamilton, raised the issue of predatory marriage in the UK Parliament in a Private Member's Bill. More recently, the Law Commission has proposed far-reaching reforms such as the abolition of the 1837 Wills Act. This would remove the automatic revocation of wills upon marriage. These proposals are currently under consideration by the Government. Training for marriage registrars is improving.

A former university teacher, I have delivered over 300 talks nationally and internationally on the topic of predatory marriage, including one at the United Nations in Geneva (Widows' Rights International). Audiences have spanned law, policing, social work, healthcare, civil registration and advocacy organisations for older and vulnerable people. Feedback has consistently highlighted both the clarity and impact of this work.

During my mother's lifetime, concerns about the man targeting her were raised repeatedly with relevant authorities. These concerns were either not recognised as safeguarding risks or were met with uncertainty about appropriate action. Drawing on this case and many others, this presentation examines recurring themes of undue influence, coercive control, gaslighting and financial abuse, and offers practical, evidence-based recommendations for reform.

With dementia rising rapidly worldwide, this conference provides a timely international forum to examine the urgent need for stronger safeguarding at marriage.

Short biography

Daphne Franks taught Communication Skills plus other non-clinical topics at Leeds Medical School for many years. She was unable to prevent her mother, Joan Blass, from suffering a predatory marriage in 2015, even though Daphne and her husband Stephen lived next door to Joan and had raised their concerns about the man to authorities repeatedly. At the time of the marriage Joan was almost 92 with advanced vascular dementia and terminal cancer. Because marriage revokes a Will in England, the man inherited her entire estate and had total control of her funeral. Joan's family were not invited. Daphne has been campaigning ever since to change the laws and procedures around marriage to prevent the many such marriages happening to

others. She has given over 300 talks about the issues nationally and the campaign has made significant progress. More information may be found at www.predatorymarriage.uk or by Googling Joan Blass, Daphne Franks or Predatory Marriage.

Session G - The Role and Potential of Voluntary Instruments in Future Planning

Marieke Oderkerk

Abstract

Ageing Across Borders: Private International Law challenges from a Dutch and EU perspective

With the ageing population and the simultaneous increase in cross-border mobility among older people, questions of private international law relating to the protection of adults are becoming increasingly important. Issues may arise concerning the international jurisdiction of the court to take protective measures with regard to an adult who is a national of the country of the court and has assets in this country but lives abroad. Furthermore, if the court has jurisdiction in a cross-border context, the question arises as to which law can be used to assess the protective measure. Finally, the question of private international law as to whether – and, if so, how – a protective measure taken in a particular country can be recognised abroad is also particularly important. A fundamental broad discussion of these topics is currently missing in legal doctrine. This article outlines the current state of affairs and recent developments from a Dutch and EU perspective, identifies problems and evaluates possible solutions. It will address the private international law questions outlined above with regard to protective measures. Attention will also be paid to private international law issues surrounding the Dutch living will ('levenstestament') and comparable continuing powers of attorney as known in other legal systems.

Short biography

Marieke Oderkerk studied Dutch Law and Italian Language and Literature at the University of Amsterdam. In 1999, she obtained her PhD at the same university with a thesis on the methodology of comparative law. From 1998 to the end of 2000, she was a university lecturer at the Molengraaff Institute for Private Law at Utrecht University. Since 2000 she works as lecturer and researcher at the Private Law Department of the University of Amsterdam. On 1 August 2022, she was appointed professor of private international law and comparative law at Vrije Universiteit Amsterdam and is also affiliated with the University of Amsterdam as a part-time associate professor. Furthermore, since 2013, she has been a deputy judge at the Amsterdam Court of Appeal. Her research covers a wide range of topics, including the general principles of private international law and international family law. She also publishes regularly on comparative legal research and methodologies.

Adrian Ward

Abstract

Advance Choices for Future Disablement

The pace of change in laws and practices, worldwide, seems always to be too slow; yet the total amount of change in some six decades has been huge and fundamental. We have gone from paternalistic total incapacitation resulting from a diagnostic label, to legislation and policy development aiming to maximise autonomy, self-determination, and all necessary support for people to exercise their legal capacity themselves. An overview of worldwide development of the nature and availability of "measures that relate to the exercise of legal capacity", and development of their use, tells a story of progress from maximum disqualifying paternalism towards achieving support in law and practice for compliance with human rights entitlements. At one end of the scale, there are what we call non-voluntary measures, put in place by operation of law (ex lege representation) or by a court or authority – covering measures such as guardianship, mentorship and so on. In recent decades there has been much development of "bilateral voluntary measures", measures such as powers of attorney or mandates created by people themselves to provide for their own possible future incapacity, but appointing someone else to implement them. There has not been parallel progress in provision and use of unilateral voluntary measures, under which a person's own instructions and decisions, preferences and wishes have direct effect. My presentation will clarify why "advance choices" rather than "advance directives" has become the chosen terminology. I shall review the past development of some provision in some countries for "advance directives" (by one or another of many possible names) limited to healthcare, or even mental health, matters. I shall describe the scope of true advance choices, and the need for legislative certainty about creation and effect. I shall describe development, firstly by the Council of Europe Working Group towards issue of Recommendation (2009)11; my own work reviewing implementation of Rec. (2009)11; how presentation at the 2022 World Congress of work done in Scotland caught international attention; and the work of European Law Institute leading to the 2025 proposals, including the main challenges for which solutions had to be found and developed, largely centered upon the time-lag between competent creation of an advance choices statement, and it becoming operative.

Short biography

Practising lawyer for 53 years, including leading cases and other innovations directed at meeting assessed needs, preventing unnecessary disqualification, and enhancing autonomy; published in 7 languages and 12 countries, including of relevance The Power to Act (1990), A New View (1993), Adult Incapacity (2003), and one of four editors and principal authors The International Protection of Adults (2015); author of chapters and articles for publication in several countries; advisory work for international, governmental and non-governmental organisations; lecturing and teaching; experience at all levels of establishing and leading organisations providing support and facilities.

Paula Távora Vítor

Abstract

Continuing Powers of Attorney: Current Status and Future Directions - An overview of the European Landscape

This first presentation will highlight the findings of a study conducted under the auspices of FL-EUR (Family Law in Europe: An Academic Network) by Rieneke Stelma-Roorda, Katrine Kjærheim Fredwall, Jordi Ribot Igualada and Paula Távora Vítor. The study examines the regulation and practical application of continuing powers of attorney across Europe. The presentation will outline the current status of this instrument within different jurisdictions and explore potential future developments. Particular attention will be given to ways of enhancing adults' autonomy, strengthening safeguards against financial abuse and undue influence, and clarifying the legal nature and regulation of the instrument.

Ruben de Jong

Abstract

The assessment of decision-making capacity in the Netherlands: a case law study

Voluntary instruments can help people to maintain autonomy during a future period of incapacity by prearranging their affairs while they are still able to. This begs the question, when does the period of prearranging end and the period of diminishing capacity begin? This final presentation will focus on one of the requirements for creating voluntary instruments, the decision-making capacity needed to create these voluntary instruments. The assessment of decision-making capacity remains a challenge for legal professionals, as well as a topic of scientific discussion. This presentation will delve in to the Dutch case law regarding this assessment, analysing civil law judgements as well as notarial disciplinary rulings. Results include factors used in the assessment of capacity by judges, the margin of appreciation judges grant legal professionals in their assessment and the significant possibilities that remained even after a diagnosis of, for example, dementia.

Short biography

Ruben de Jong is a teacher-researcher at VU Amsterdam. He is writing a PhD thesis on the modernisation of mental capacity law and supported decision making in (notarial) legal acts and has published his first article based on a case law study on this subject in the WPNR. He also teaches several family law and property law courses and contributes to the inheritance case law journal JERF.

Session H - Financial Well-Being, Capability and Abuse within the Context of Ageing, or Health Conditions, Around the World

Janneke Koerts

Abstract

Financial well-being of people with psychotic disorders

Psychotic disorders are relatively common and are most often diagnosed during adolescence or early adulthood, though onset can occur at any stage of life. Affecting approximately 2–3% of the population, these disorders are characterized by positive symptoms (hallucinations, delusions, paranoia), negative symptoms (blunted affect, poverty of speech, decreased motivation and goal-directed behavior, diminished interest in social interactions), and cognitive impairments in domains such as memory, attention, and executive functioning. Psychotic disorders have a profound negative impact on multiple areas of functioning, including financial well-being and financial capability. The majority of individuals with a psychotic disorder experience long-term unemployment, and many require a representative payee. The aim of this presentation is to provide an overview of key studies of the FinFit project investigating financial well-being and financial capability among individuals with psychotic disorders. Research indicates that
approximately 25% of this population report financial dissatisfaction and unmet financial needs,
experiences associated with the use of cannabis and other substances. Qualitative interviews with people with psychosis, family members, and healthcare professionals reveal a range of financial difficulties, including challenges in covering expenses and managing financial tasks. These difficulties may lead to poor living conditions, housing instability, interpersonal conflicts, victimization, and breaches of regulations. Finally, empirical evidence shows that people with psychotic disorders demonstrate impairments in understanding financial information, performing financial tasks (e.g., interpreting bank statements or invoices), and managing debt compared to people without psychotic disorders. The presentation will conclude with a discussion of future directions and the implications of the results of the FinFit project for
enhancing integration and collaboration between the healthcare and social care sectors in the Netherlands

Short biography

Department of Clinical and Developmental Neuropsychology, University of Groningen, Groningen, the Netherlands

Preeti Sunderaraman

Abstract

Experiences of Financial Loss in Older Adults Living in the United States

Financial loss associated with financial mismanagement and financial exploitation is a significant public health concern worldwide. In the United States alone, the total loss from cyber-related financial crimes was $16.6 billion, according to the 2024 Federal Bureau of Investigation's (FBI) Internet Crime Report. These estimates are even higher if non-cyber financial crimes are included, and in general, given the underreporting of financial loss. Scam-related financial loss results in huge economic strains on both the individual and society. The adverse psychological and health consequences of financial loss are tremendous as well. The rapid increase in financial exploitation has outpaced the available instrumentation in the field, limiting what is known about both the effects and nature of financial loss, or the measurement properties of the instruments themselves. The current study aims to overcome such limitations. A comprehensive, adaptive style online survey was developed and distributed via RedCap. A total of 250 participants responded to the survey. Data were collected at baseline and, in a subset of participants, at one-year longitudinal follow-up. Responses were analyzed quantitatively and qualitatively. Results will be discussed by first describing the sample demographics and the prevalence of financial losses stratified by the mechanism of loss. Participant responses at baseline and follow-up will be discussed with emphasis on reasons for discrepant self-reported experiences of financial loss from baseline to follow-up. A broader critical dialogue will follow regarding the implications of such findings and the practical, clinical, and legal challenges and approaches which will be needed to overcome them.

Short biography

Department of Psychiatry and Human Behavior, Brown University, United States

Vaitsa Giannouli

Abstract

Assessment of financial capability in older adults: The Greek reality

Financial capability in Greece is a hot, but still little investigated topic that can influence not only patients and their families/caregivers, but also the practice of healthcare and legal professionals. This review of the relevant published literature aims to present empirical findings coming from studies focused on the assessment of financial capability in older adults suffering from neurocognitive disorders (NCDs) during the last decade. Evidence supports various deficits in financial capability in Greek older adults suffering from NCDs of different severity and etiology (such as Alzheimer's Disease, Parkinson's Disease, vascular dementia, dementia with Lewy Bodies, frontotemporal dementia) as well as in patients with bipolar disorder. Relevant neuropsychological instruments which have been introduced in the Greek cultural and linguistic context will be discussed. More specifically, scores coming from these diverse patient groups indicate impairment in basic monetary skills, cash transactions, bank statement management, bill payment, financial conceptual knowledge, financial decision-making, and knowledge of personal assets with severe implications on patients' financial well-being. In addition to that, factors ranging from biomarkers to demographic variables that can predict financial capability will be mentioned with the aim to propose relevant assessment protocols by taking into consideration up-to-to-date knowledge on this topic. Implications for guardianship, legal support and protection, and changes in existing law regarding (financial) abuse and undue influence will also be highlighted.

Short biography

School of Social Sciences, Hellenic Open University, Greece
Department of Psychology, Democritus University of Thrace, Greece

Gali Weisberger

Abstract

Linking Subjective Views of Aging to Financial Exploitation Risk: Moderators, Mediators, and Future Directions

Financial exploitation (FE) of older adults is a pervasive problem resulting in devastating financial losses as well as negative physical health, psychological, and social consequences. Thus, identifying risk factors of FE is a critical first step in developing and implementing targeted interventions that mitigate the associated negative consequences. Subjective views of aging, or how individuals perceive, evaluate, or view their own aging process or the aging process generally, are associated with a myriad of health outcomes including physical, cognitive, and psychological well-being. The goal of this presentation will be to summarize key findings regarding the relationship between subjective views on aging and FE vulnerability among older adults. Findings from a number of studies will demonstrate the link between negative subjective views on aging and increased FE risk. Additionally, subjective views of aging will be discussed as a key moderator of other commonly cited risk factors of FE including lack of social support and cognitive functioning. For example, in one study, the link between low social support and increased FE vulnerability was found only among older adults with older subjective ages (i.e., how old one feels visà-vis their chronological age). Mechanisms that may explain the relationship between subjective views on aging and FE vulnerability will also be discussed, including findings which support financial self-efficacy as a key mediating variable explaining the subjective views on aging to FE link. Finally, preliminary longitudinal data regarding reciprocal relationships between subjective views on aging and FE will be presented, and future directions and implications will be discussed.

Short biography

Department of Social and Health Sciences, Bar-Ilan University, Israel

Lisa Engel

Abstract

For adults with brain injury in Canada, do we address financial capability, capacity, or both?

Brain injury is one of the most prevalent chronic and disabling conditions worldwide, and studies consistently report that at least one-third of people with chronic acquired brain injury (cABI) report financial management challenges. A recent Canadian-based survey found that 70% of adults living with cABI reported that brain injury affected financial capability. Financial capability, including knowledge, skills, attitudes, and behaviours, is salient to daily living, community participation, and financial wellbeing. However, when financial capability challenges are identified after brain injury, two disparate options are often used. First, another adult formally (legally) or informally takes over managing the person's finances, such as the avenue for incapacity determination and substitute decision-making via guardianship, committeeship, or powers of attorney. A second option is individuals get support to address financial capability challenges or supportive decision-making, alternatively or in adjunct to incapacity options. Using a human and disability rights and Canadian law perspective, this presentation will explore the capability versus capacity conundrum. It will present data from three recent Canadian communityengaged studies about financial capability after cABI. The first study explores eight financial challenges identified by people living with cABI, where seven focus groups (n=25 participants total, n=15 participants living with cABI) identified 20 program idea categories and five contextualizing factors to addressing these financial challenges after cABI. Next, the presentation will discusstwo pilot intervention studies examining two of these identified ideas. The first intervention pilot study examined a co-developed and individualized financial wallet-card, where nine of the 10 participants who lived with cABI qualitatively reported accessibility, feasibility, and benefits over the longitudinal data collection. The second intervention was an individualized financial coaching program for adults with cABI that was based in metacognitive strategy training and facilitated by trained occupational therapists; four of the five participants in this study quantitatively demonstrated individualized financial goal attainment and qualitatively reported positive outcomes. To conclude, this presentation will discuss recent advances happening in Canada to improve both financial capability services and incapacity-determination issues within healthcare and community contexts.

Short biography

Department of OccupaRonal Therapy, College of RehabilitaRon Sciences, University of Manitoba; Winnipeg, Manitoba, Canada
InsRtute for Work & Health; Toronto, Ontario, Canada

Session J - Assessment, Care and Autonomy

Astrid Vellinga & Erik Sikkens

Abstract

Maximizing Autonomy in Dutch Psychiatry: Legal Innovations and Practical Challenges

The introduction of the Dutch Mental Health Act in 2020 placed autonomy at the heart of psychiatric care. The law not only identifies autonomy as a key objective but also introduces specific instruments designed to enhance patient autonomy—even during compulsory treatment.
This presentation aims to (1) provide an overview of these legal instruments, (2) examine their implementation in clinical practice, and (3) critically discuss the limitations of promoting autonomy through legislation.
While legal reform is an important first step, cultural change within mental health care requires more than new regulations. We will explore the practical challenges clinicians face when applying these instruments and address the potential risks of over-legalization of clinical practice, which may paradoxically undermine autonomy.
Stimulating autonomy through law is promising but insufficient on its own. A broader cultural shift is essential to achieve meaningful patient empowerment.

Short biography

Astrid Vellinga is psychiatrist and medical director at Arkin, a large mental healthcare institution in Amsterdam. As psychiatrist she works in a FACT team, this is a community service for people with severe mental illness, where recovery is a central theme. Recently she was involved in research about the association between personal and medical recovery. As medical director she is responsible for a just practice of involuntary commitment and forced treatment, as well as the overall quality of care. The subject of ethics and moral deliberation has been a major focus since her education as a doctor. Her PhD was about competency and decision making capacity. She provided teaching about different topics of ethics to students, trainees of psychiatry and psychiatric nurses. She raised the ethical committee and introduced moral deliberation to Arkin. She is member of the board of the NEON Foundation (National Network on Dutch Ethics Support in healthcare institutions).

Lieke Coenraad

Abstract

The right to be heard in compulsory psychiatric care cases in the Netherlands

This paper focuses on the hearing of the person concerned in compulsory psychiatric care cases in the Netherlands.
To provide compulsory psychiatric care to a person a judicial order is required. Article 6:1, paragraph 1 of the Dutch Compulsory Mental Health Care Act stipulates that the judge should hear the person concerned upon a petition for a judicial order, unless the judge determines that the person concerned is unable or unwilling to be heard.
In compulsory psychiatric care cases, it regularly occurs that the person concerned is absent from the judicial hearing. The first question that arises is how the judge must assess whether the absent person concerned is willing to be heard. May the judge in this regard rely on statements from third persons, such as the physician, lawyer or family members of the person concerned? What attempts must the judge make to actually reach the person concerned in order to assess his willingness to be heard? Must the person concerned be summoned again for a new hearing? And what if a new hearing cannot be awaited, because the judge is of the opinion that compulsory care is immediately necessary: can the judge then grant a judicial order for a short period of time without hearing the person concerned, subsequently summoning the person again for a second hearing in order to decide on the remaining duration of the judicial order applied for?
Complaints regarding the violation of the right to be heard in compulsory psychiatric care cases are frequently lodged with the Supreme Court of the Netherlands, and often successfully. These cases have led to established case law of the Supreme Court.
This paper addresses the aforementioned questions and dilemmas, as well as the rules applicable in the Netherlands regarding them.

Saskia Teunisse

Abstract

Strengthening decision-making ability and capacity: a new Dutch guideline

In 2023 a new guideline on matters of decision-making capacity was developed in the Netherlands (SKILZ, 2023). It is a multidisciplinary guideline for professionals working in care for adults with intellectual disabilities and for older adults. The main purpose is to offer these professionals guidance on strengthening the decision-making abilities of their clients. All people have the right to choose how they want to live their lives and how to decide on matters that are important to them. Not all clients, however, are able to do so independently (anymore). Supporting them and optimizing their decision-making ability is of huge importance. Particularly so as some of these decisions can have a significant impact on the quality of their lives.
The new guideline discriminates between (a) decision-making ABILITY, i.e. a continuum varying from little to much ability, and (b) decision-making CAPACITY reflecting a judgement of a professional with only 2 options i.e. the client is competent or incompetent regarding the decision at hand. The guideline advises professionals to focus on strengthening decision-making ability. It presents varies ways to so, paying attention to the effects of individual and contextual factors to everyday decision-making; knowing what optimizes or hinders decision-making is of utmost importance when crucial decisions are to be made. Professionals are advised to be hesitant to perform formal capacity assessments and to do so only if specific conditions are met. For example the decision at hand is a decision with serious consequences, optimizing decision-making ability has not been helpful enough to take away any signs of incompetence, and a formal assessment will contribute to new actions to be taken.
In this presentation this new guideline will be presented with particular focus on how to strengthen decision-making ability and capacity.

Short biography

Registered Clinical Psychologist and Clinical Neuropsychologist and PhD. Delivers high quality of psychological care, based on latest scientific developments. More than 30 years of clinical experience in a wide variety of settings, contexts and clients, both in the Netherlands and abroad (UK). Particularly experienced in complex diagnostic, treatment and other care-related questions, where multiple biopsychosocial problems contribute and where assessment and treatment is not straightforward but instead needs to be considered and weighted in close collaboration with the client, the carer and the multidisciplinary team in order to deliver the best possible care. One of her areas of expertise is decision making capacity in older adults.

Renata Anahí Bregaglio Lazarte

Abstract

Care and autonomy: From antagonistic to complementary

The 2018 reform of the Peruvian Civil Code, enacted through Legislative Decree No. 1384, represents a paradigmatic shift in the legal treatment of persons with disabilities by recognizing their full legal capacity and introducing a framework of supports consistent with Article 12 of the Convention on the Rights of Persons with Disabilities (CRPD). This transformation, however, has also brought into focus a central normative tension: the relationship between care and autonomy in contexts where individuals may require support in decision-making. This presentation examines how the Peruvian reform attempts to reconcile these two principles and the challenges that arise in practice.

The shift from substituted decision-making to supported decision-making is not merely a technical legal reform but a profound transformation in the understanding of disability, responsibility, and relational autonomy. While the reform seeks to dismantle paternalistic regimes historically justified in the name of protection or care, social and institutional expectations surrounding caregiving continue to influence legal interpretation and implementation. In particular, family members and judicial actors often frame support arrangements through a logic of protection that risks reintroducing substitute decision-making practices under the language of care.

The challenge lies not in rejecting care, but in redefining it within a rights-based framework that centers the will and preferences of the person with a disability. Care must therefore be understood as compatible with autonomy, provided that support relationships are structured to avoid undue influence and preserve the individual's agency.

The Peruvian reform thus illustrates a broader dilemma faced by legal capacity reforms globally: how to transform long-standing protective paradigms without ignoring the realities of interdependence that shape many people's lives. Addressing this challenge requires strengthening safeguards, clarifying the role of supporters, and fostering a judicial culture capable of interpreting care as an enabling rather than substitutive practice.

Short biography

Perú Renata Anahí Bregaglio-Lazarte is an Associate Professor at the Law Department of the Pontificia Universidad Católica del Perú and is a member of the Research Interdisciplinary Group on Disability (GRIDIS – PUCP). She has a Law degree and a Master of Arts in Human Rights from the same university. She also has a Master of Laws in Fundamental Rights from Universidad Carlos III de Madrid (Spain). She has participated in the Congressional Commission for the Reform of the Civil Code for the recognition of legal capacity of persons with disabilities in 2014.

Session K - Spanish Speaking Session

Ana Paola Lorberg Romero

Abstract

Envejecimiento y derechos humanos: retos en América Latina, Bolivia y Europa

El envejecimiento poblacional es un fenómeno global con profundas implicaciones sociales, económicas y políticas. En Bolivia, la población mayor de 60 años superará el 11% en 2030. La mayor esperanza de vida, sobre todo en mujeres, confirma la feminización de la vejez y plantea cambios en las familias, los sistemas de salud, las pensiones y el urbanismo. Este proceso exige políticas públicas inclusivas y un enfoque de derechos humanos que garanticen dignidad, autonomía y protección frente a la violencia. En contraste, Europa enfrenta desde hace décadas una de las tasas de envejecimiento más altas del mundo: países como Italia, Alemania y España tienen más del 20% de su población mayor. Allí, los sistemas de bienestar han desarrollado pensiones sólidas, cuidados de larga duración y programas de salud preventiva, aunque persisten retos de sostenibilidad fiscal, dependencia y soledad no deseada. La comparación muestra que mientras en América Latina el desafío central es construir sistemas de protección aún incipientes, en Europa el reto radica en mantener y adaptar los ya existentes. Sin embargo, en ambas regiones se comparte la necesidad de promover la participación activa de las personas mayores, adaptar el mercado laboral, impulsar tecnologías asistivas y reconocer su aporte a los Objetivos de Desarrollo Sostenible. El envejecimiento no debe concebirse solo como un desafío, sino como una oportunidad intergeneracional: en Bolivia, mediante la transmisión de saberes y valores; en Europa, a través de la innovación en el cuidado y la cohesión comunitaria.

Short biography

Ana Paola Lorberg Romero es académica destacada en Derecho y Derechos Humanos con más de 20 años de experiencia en docencia, gestión universitaria e investigación. Doctora en Ciencias Jurídicas por la Pontificia Universidad Católica Argentina y Magíster en Derechos Humanos, actualmente es profesora a tiempo completo en la Universidad Católica Boliviana “San Pablo”, donde también lidera empleabilidad, prácticas y convenios institucionales. Autora de publicaciones sobre envejecimiento y derechos humanos, fundadora de la Red Gerontológica de Bolivia y miembro de redes internacionales, combina excelencia académica con liderazgo en proyectos de justicia, dignidad y derechos fundamentales. Su perfil internacional, enriquecido por el manejo del castellano y conocimientos básicos de inglés, le ha permitido participar en congresos, seminarios y espacios de diálogo académico, en los que comparte y contrasta la experiencia latinoamericana con otras regiones del mundo.

Maria Cristina Minchilli

Abstract

Cuidados paliativos de adultos mayores con enfermedades terminales, abordaje del duelo

El aumento sostenido de la esperanza de vida y la transicion demográfica han incrementado la proporción de adultos mayores en la población mundial y nacional, como así mismo el incremento de enfermedades crónicas y degenerativas en etapa avanzada con situaciones de terminalidad. El envejecimiento en la Argentina constituye uno de los mayores desafíos sociales, sanitarios del siglo XXI, el incremento sostenido de aumento de adultos mayores, con enfermedades crónicas y degenerativas , sumado a la expectativa de vida, se ha puesto en evidencia la necesidad de implementar políticas y programas orientados a la atención integral en el final de la vida.

Short biography

Programa de Adultos Mayores, Trabajadora Social, Especialista de gerontología Social y Comunitaria, finalizando el magister en Gerontologia.

Montserrat Perena Vincente

Abstract

Autonomía y lucha contra abuso financiero: aportaciones del Derecho Civil al envejecimiento activo

El estudio que proponemos parte de la idea de que hay que subrayar la importancia de dos factores determinantes para un envejecimiento saludable: la autonomía para tomar decisiones y la seguridad financiera. Garantizar el respeto de la voluntad y preferencias de la persona durante la vejez y dotarle de los instrumentos jurídicos que favorezcan tener los medios económicos para mantener un nivel de vida adecuado y que le permitan, si esa es su voluntad, envejecer en su propio hogar, contribuyen también a un envejecimiento activo y saludable y, sobre todo, a una vejez digna, por lo que es necesario, con una perspectiva holística, analizar las diferentes esferas o ámbitos en los que es necesario incidir. Esta visión coincide con el informe de la Alta Comisionada de las Naciones Unidas para los derechos humanos de 28 de enero de 2022, que identifica diferentes esferas afectadas por la insuficiente protección de los derechos de las personas mayores, entre los que se encuentran (punto 18) la independencia y autonomía, la calidad de la atención y cuidados a largo plazo, la capacidad jurídica y el derecho a un nivel de vida adecuado, "en particular en lo que respecta a la vivienda" (A/HRC/49/70).

Short biography

Professor of Civil Law, Director of the Research Centre on Persons Law and Patrimony Law URJC, Spain, Visiting Professor at Aix-Marseille University, Bordeaux University, Paris-Créteil University, France, and Louvain Catholique University, Belgium. Founding adviser of the Institute of International Legal Studies. Distinguished Professor of the University of Havana, Cuba. Senior International Fellow Burton Blat Institute, USA. First prize "Aequitas" for Legal Research 2007, awarded by the General Council of the Spanish Notary. Director of several Research Projects: Empowering Persons with Disabilities; "Creation of a Code of Good Practice in the Practice of Guardianship" (2018); "Best Practice on support decision making by Public Authority" (2020); "Will, Autonomy and Well-being of the elderly person: legal challenges" (2026). Author of many publications on the rights of people with disabilities and support decision making.

Gloria Diaz Pardo

Abstract

Discapacidad, envejecimiento y apoyos en Derecho español: incidencia práctica de la guarda de hecho

El sistema jurídico español ha sufrido una profunda transformación en la protección y defensa de los derechos e intereses de las personas con discapacidad, a fin de adecuar el anterior sistema jurídico decimonónico a la Convención Internacional de Naciones Unidas celebrada en Nueva York en 2006.
Las medidas propuestas en la Ley 8/2021, de reforma del Código civil español, van dirigidas a las personas con discapacidad, desapareciendo la tradicional figura de la tutela y tomando un nuevo impulso la figura de la "guarda de hecho", de carácter informal, erigiéndose con preeminencia sobre la curatela.
Nuestro objetivo es delimitar el ámbito de actuación del guardador de hecho, diferenciarlo del resto de las figuras de apoyo y fijar adecuadamente las situaciones en las que debe intervenir.
Resulta de especial interés diferenciar discapacidad de envejecimiento y de dependencia, y tratar jurídicamente la interacción entre estas tres posibles situaciones. La pérdida de apoyos naturales que conlleva el envejecimiento puede conducir a una falta de capacidad para decidir, o a una necesidad de ayuda en su devenir diario, pero no todos los ancianos padecen de discapacidad, ni todos sufren un grado de dependencia. Por ello, debemos establecer diferencias en los apoyos requeridos en cada caso, contextualizando la guarda de hecho y contemplando la procedencia de otras figuras como el asistente personal o el cuidador.
Partiremos de un análisis jurídico en profundidad de las figuras reseñadas, fijando dentro del marco legal la responsabilidad y el control en el ejercicio de los diferentes apoyos, para continuar poniendo sobre la mesa la realidad actual del nuevo modelo.
De particular interés resulta analizar la repercusión práctica que tiene la guarda de hecho en la vida cotidiana de las personas con discapacidad, así como su reconocimiento jurisprudencial. La dificultad probatoria de la guarda de hecho, particularmente por la vulnerabilidad en actos con trascendencia económica, se ha convertido en un escollo práctico para la actuación de los guardadores, lo que conduce a desplazar a esta figura y sustituirla por la curatela. Las últimas sentencias del TS son especialmente reveladoras para conocer si la relevancia y preeminencia que el legislador da en la ley a la guarda de hecho sobre la curatela tienen reflejo en las decisiones del Alto Tribunal al aplicarla, lo que marcará las perspectivas de futuro de esta singular figura así como del resto de medidas de apoyo.

Short biography

Profesora Titular de Derecho en la Universidad Rey Juan Carlos. Profesora de Derecho civil en la Universidad Católica de Lille en París. Formadora en el curso "Buenas prácticas en el sistema de apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica", dirigido a empleados públicos de la Comunidad de Madrid, Vicepresidenta del Comité de Ética de la Investigación de la URJC durante 10 años. Miembro del equipo investigador en diferentes Proyectos de Investigación sobre protección de las personas con discapacidad del Ministerio de Ciencia, Innovación y Universidades, participando en la actualidad en el Proyecto «Voluntad, autonomía y bienestar de la persona mayor: retos jurídicos». Autora de diferentes obras sobre discapacidad en revistas y editoriales jurídicas. Conferenciante en anteriores Congresos

Mundiales (Seúl y B. Aires) Redacción del Código de Buenas Prácticas, bajo encargo de la Consejería de Familia, Juventud y Política Social de la CCAA de Madrid.

Núria Pi & Glòria Cerrato

Abstract

Apunt Service for Independent Living in Girona

The life manager model of Support-Girona enables real exercise of legal capacity through flexible, ongoing social and community supports tailored to each person's preferences. It creates conditions for people to understand, assess, decide and participate in their lives, even in complex situations, rather than just handling paperwork or substituting decisions. Every intervention begins with a formal document (judgment or notarial deed) defining functions, supervision level, protection type and professional limits, ensuring respect for rights and will. Life managers work from a holistic perspective (legal, social, relational, community), always with—not on—the person. The model rests on four pillars: Continuity (Links services, professionals and crises; documents processes; prevents hasty decisions), Context(Decisions made in daily environments for realistic daily-life suports), Network (Mobilises formal/informal supports (social services, mental health, police, neighbours, shops)), Relationship (Stable bonds anticipate problems and activate resources before coercion). Results include residential stability, fewer involuntary admissions, greater social participation and enhanced autonomy perception. It shifts from emergency responses to long-term processes with clear information, realistic agreements and proportional protection. Family joins when desired, easing tasks that strain affective bonds. Involuntary admission prevention uses early detection, community alternatives and coordination with mental health networks (mobile teams, ETACs). Housing stability leverages low-threshold spaces, housing committees and supported return home. Community networks (roundtables, local actors, police coordination) plus mentoring/leisure strengthen identity, belonging and citizenship. This evolving methodology—pilots, indicators, supervision—demands time but yields tangible outcomes: regained decision-making, networks and life continuity.

Short biography Núria Pi

Social Worker (University of Lleida). Head of Communication & Training at Support-Girona Foundation. Over 10 years leading Legal Area & Advisory Services. Trainer/speaker on disability rights. Former Councilor for Social Services (Girona City Council, 2019-2023). Key in Quality Rights implementation in Spain.

Short biography Glòria Cerrato

Social Worker Co-founder of the Girona Guardianship Foundation Head of the Social Area In-depth expertise in local Welfare System (resources, services, benefits) Extensive experience in coordinating services and professionals

Parallel sessions - Friday 10 July 2026

Session A - New and Developing Legal Instruments

Joon Tae Park

Abstract

Supported Decision-Making Services in Korea: Policy Tasks within the Integrated Care Framework

In Korea, an Act to provide integrated, community-based care for the elderly and persons with disabilities will come into effect in 2026. In response to criticism regarding the fragmented operation of public care services by individual service providers, the Act mandates local governments to implement and support an interdisciplinary delivery system involving multiple service providers. However, while the Act stipulates that the right of self-determination of service recipients be guaranteed, it does not specify what supported decision-making services are to be provided.

This work analyzes areas for improvement in supported decision-making services in Korea from the perspective of integrated care. To begin with, public guardianship services in each type of disability were reviewed. In turn, a public trust service for adults with developmental disabilities, which commenced full-scale operation in 2025, was reviewed. Additionally, plans to introduce a public trust service for the elderly were explored. As a result, it was found that the lack of an efficient delivery system and poor management of guardians hindered the expanded use of the supported decision-making services. The delivery system under the integrated care framework, if properly designed and operated, could help address the challenges associated with the supported decision-making services.

Short biography

Partner at Lee & Ko (Korea). Juris Doctor (Hanyang University) and MS in Real Estate Development (MIT). Member of the Korean Guardianship Association.

Meredith Smith

Abstract

From Legal Mandate to Practical Reality: Implementing Less Restrictive Alternatives to Guardianship

Education and advocacy focused on maximizing autonomy and respecting the rights of individuals in need of support have driven meaningful legal reforms. In some jurisdictions, courts and parties to guardianship proceedings are required by law to consider less restrictive alternatives before a guardian may be appointed. Yet a persistent challenge remains: the gap between mandating the consideration of alternatives and implementing them in practice. In a guardianship proceeding, appropriate and tailored less restrictive alternatives such as a power of attorney, a supported decision-making arrangement, or technological supports may be identified by the court and the parties to the proceeding, but questions inevitably arise: Who is responsible for arranging for the alternative? Who drafts the necessary legal documents? Who provides counsel about the risks and benefits of each option? Who pays the associated costs or assists in obtaining a waiver of such costs? Who provides support over time? In addition, there is a lack of sufficient coordination among professionals capable of operationalizing alternatives. Those professionals may lack clear guidance regarding their authority to go beyond identifying the alternative to assisting the person in need of support with implementing it. At the same time, social services, legal aid providers, and community partners face significant budget constraints, staffing shortages, and high caseloads, further limiting their capacity to assist with the implementation of alternatives. This session will identify key pressure points that emerge when a legal system mandates consideration of alternatives in the absence of an accompanying infrastructure to implement them. It will highlight potential pathways and solutions that can translate legislative mandates into meaningful action, including the concept of a court-ordered guardianship diversion program. Participants will have the opportunity to engage in feedback and analysis of these pathways and to explore opportunities within their own communities to make alternatives to guardianship a realistic, accessible, and sustainable option for adults in need of support.

Short biography

Meredith Smith is an associate professor with the University of North Carolina at Chapel Hill School of Government. Smith joined the School in 2013. Smith earned a B.A. in political science and Spanish, with distinction, from the University of North Carolina at Chapel Hill and a law degree, cum laude, from Georgetown University School of Law. Smith areas of scholarship focus on legal issues arising in the field of aging and adult services, with a particular focus on adult guardianship and adult abuse, neglect, and exploitation. Smith is the co-creator of the North Carolina Adult Protection Network. She is one of the primary professors in North Carolina who provides training and resources to North Carolina public officials, including judicial officials who preside over guardianship proceedings and adult social services attorneys, directors, and staff.

Małgorzata Balwicka-Szczyrba & Anna Sylwestrzak

Abstract

Inheritance and testating capacity of older persons in Polish inheritance law

This paper will demonstrate that the Polish legal system supports the inheritance rights of older adults, while also providing other tools for protecting their interests. It will also outline the principles under which older individuals can make wills. The paper's thesis is that the Polish legal system adequately supports older adults in inheritance law, but there are areas that require legislative intervention to better safeguard the rights of older adults. The following issues will be addressed primarily: 1) Statutory inheritance of older people. - During the socialist era, it was assumed that older people, for economic and social reasons, should not inherit property. The shift in worldview, leading to the perception of older people as subjects requiring special protection, including in the sphere of property ownership, led to the reform of the Civil Code in 2009 and the inclusion of the testator's grandparents among the statutory heirs. However, the testator's great-grandparents were omitted. 2) Quasi-maintenance claim of the testator's grandparents - the testator's grandparents, who are in need, are entitled to a claim for maintenance from their grandchild's heirs. The purpose of this regulation is to prevent poverty among the elderly. The deficiency of this protection is that it leaves out the testator's parents and great-grandparents, who, being elderly, would deserve similar protection. 3) Elderly Person as Testator - Current regulations on the form of a will do not make it easier for someone suffering from age-related ailments, such as difficulty writing or moving. 4) Reserved share for the elderly - An elderly person who is permanently incapacitated and, as a parent, spouse, or child of the testator, is entitled to a reserved share receives a higher amount. This provision is based on archaic socialist assumptions and does not meet the contemporary needs of protecting the interests of the elderly. 5) Inheritance sanctions for failure to support an elderly person by their heirs a) A person who has evaded care of the testator may be deemed unworthy of inheritance if they were obligated to support him (e.g., a child who refused to support their elderly and infirm parent) b) A person who fails to fulfill family obligations (e.g., failure to support an elderly parent) may be disinherited in a will.

Short biography

Professor and academic lecturer at the Faculty of Law and Administration of the University of Gdańsk, Department of Commercial Law. Attorney at law. Since 2020 the deputy dean for education responsible for the quality of teaching. Member of the Education Committee responsible for education and the University Senate Education Committee. Prof. Balwicka-Szczyrba conducts research mainly in the area of private law. She is the author or co-author of over 100 publications (monographs, scientific articles, glosses) in the field of civil, family and personal law as well as health protection law. She is the scientific editor of the Commentary to the Civil Code, Wolters Kluwer 2022. She holds position of the deputy chairman of the Legal Sciences Discipline Council at the Faculty of Law and Administration of the University of Gdańsk. She is a member of organizations such as: European Law Institute, Vienna.

Carmen Pérez Dios

Abstract

Analysis of Spanish Regulation on people with disabilities: ineffectiveness of the contracts

Law 8/2021, of 2 June, represents one of the most significant reforms of Spanish civil law in decades. Its strategic importance lies in the definitive alignment of the national legal system with the principles and mandates of the International Convention on the Rights of Persons with Disabilities. The law abandons a system historically based on substitution in decision-making—embodied in the figure of judicial incapacitation—to move towards a new model focused on support and respect for the will and preferences of the individual. As such, the legislation abolishes traditional figures for adults such as guardianship and prodigality, replacing them with curatorship, which must be flexible and proportional to the needs of assistance. The law does not seek to modify or limit the legal capacity that is inherent to every person, but rather to articulate the necessary instruments for it to be fully exercised. This framework is materialised through the complete reconfiguration of the system of support measures, which becomes the central axis of legal protection. The purpose of my presentation is to analyse the impact of Law 8/2021, assessing the problems it sought to solve and the extent to which they have been or will be solved. In addition, I will also place special emphasis on the ineffectiveness of contracts entered into by persons with disabilities. In this regard, it examines how the invalidity of acts ceases to operate as an automatic consequence of personal status and becomes dependent on verifiable factors, such as the suitability of support mechanisms, the cognitive and linguistic accessibility of information, and the empirical verification of the grantor's will and preferences. This paradigm shift has structural implications for the general theory of legal transactions, including the reduction of cases of nullity, the expansion of criteria for annulment linked to procedural guarantees, and the consolidation of principles of interpretation pro persona and pro autonomy. Likewise, relevant challenges for the legal assessment of capacity are identified, configuring a model of exceptional ineffectiveness, aimed at maximising the effectiveness of the exercise of rights.

Short biography

I am Professor of Civil Law at the University of A Coruña, where I teach courses in Spanish and English in both the Law Degree and the Bilingual Degree programs, as well as collaborating in master's degrees focused on Digital Law, Artificial Intelligence, and video game design and development. I hold a PhD in Civil Law from the University of Navarra, where I received an International Mention and the Extraordinary Doctorate Award for my research focused on consumer credit, banking law, and consumer protection. My career includes a stay at the University of Warwick and experience as a professor at the University of Vigo. I have contributed to the academic design of new university programs at some private universities and have numerous publications, including a monograph on consumer credit and works on inheritance, sharenting, and digital regulation. Accredited as a Contracted Doctor and qualified to teach in English.

Holger Marx

Abstract

Enduring power of attorney in Germany as a tool for strengthening adult self-determination

Since many years, enduring power of attorney for advanced care planning in Germany is a legal support tool that is well suited to avoiding court-ordered legal support.
In a short presentation, I would like to outline the options for legal support in Germany:

- Representation by spouses, new since January 1, 2023, („Ehegattenvertretungsrecht“)
- Court-ordered legal support („rechtliche Betreuung“) and
- Enduring power of attorney for advanced care planning („Vorsorgevollmacht“)

However, these three options for legal support are not equal under German law. For example, it is regulated by law that representation by spouses is not possible if a enduring power of attorney or court-ordered legal support already exists for this area.
Court-ordered legal support may also not be established if a enduring power of attorney exists and this enduring power of attorney allows the affairs of the person concerned to be handled in the same way.
In particular I would like to explain the legal classification of enduring powers of attorney. In international comparison, a enduring power of attorney in Germany is quite unique, as there are only few formal requirements for enduring powers of attorney and they are easy to set up.
In Germany, an enduring power of attorney is a contract (mandate) between a person who grants the enduring power of attorney (principal) and a person who exercises the enduring power of attorney (agent). The enduring power of attorney can be freely structured by the principals according to their wishes and ideas. This ensures a high degree of self-determination.
As one important prerequisite for granting an enduring power of attorney remains the legal capacity of the principal. In addition, it is essential that there be unrestricted trust in the agent. The agent must be aware of the enduring power of attorney (know about it) and agree to it.
Because of to the limited possibilities of control, there is a risk of abuse. In particularly important matters, such as decisions concerning restrictions on freedom or coercion, a court procedure is provided for review. This serves to protect the principal.
Otherwise the involvement of a court or a notary or public authority is not required. Nor does a enduring power of attorney need to be registered in order to be valid. However, there is a possibility to register enduring powers of attorney in a central register. The courts have access to this register. This access is necessary in order to detect if a enduring power of attorney already exists. If a enduring power of attorney exists and is sufficient to regulate the affairs of the persons concerned, the court will not establish a court-ordered legal support.
Enduring powers of attorney have been growing in importance in Germany for years. Currently, approximately 6.5 million enduring powers of attorney are registered. Many more unregistered enduring powers of attorney are likely to exist. Nearly all agents are private individuals from the close personal circle (family) of the persons concerned.
In summary, I would like to outline the advantages and disadvantages of an enduring power of attorney for advanced care planning, whereby the advantages clearly outweigh the disadvantages.

In conclusion, it can be said that a enduring power of attorney is a really good alternative to court-ordered legal support („rechtliche Betreuung“). It is a good tool for expressing self-determination and strengthening the autonomy of adults.

Session B - The Role of NGO's

Jochen Exler-König

Abstract

The role of NGO's in supported decision-making systems - an international exchange of experiences

This session will start with 4 input presentations from 4 different NGO's from 4 different countries. The aim is to highlight the importance of NGO's in supported decision-making and adult guardianship systems. The participants are invited to engage in an international exchange of ideas and experiences. We just want to learn from each other.

Short biography

Jochen Exler-König is the chairperson of the International Guardianship Network (IGN). He founded IGN together with international colleagues in 2001. Exler-König is a Professional Guardian and Chief Executive Offícer of the German NGO Betreuungsverein Treptow-Köpenick e.V.. He is responsible for the support and education of volunteers and family member guardians. He received a B.A. in Social Work from the Alice Salomon University of Applied Sciences Berlin (1998) and a M.A. in Adult Education from the Humboldt University of Berlin (2001).

Mike Schaltz

Abstract

The role of the new created NGO's in Luxembourg guardianship-law

Luxembourg carried out the last major reform of its guardianship law in 1982. From the outset, this reform stipulated that NGO's and foundations should take care of people in need of protection. Nevertheless, it took until 2005 for the first Luxembourg guardianship association to be founded. I will shed light on the impact of the new guardianship NGO's since 2005 and try to describe the associated changes and challenges in Luxembourg. Luxembourg only ratified the CRPD in 2011, so in my opinion the guardianship NGO's, since 2005, have intentionally or unintentionally forestalled the partial implementation, especially of CRPD article 12. Luxembourg is known to be a wealthy nation. Nevertheless, the care of people in need of protection remains neglected, especially in terms of the resources allocated. A reform of Luxembourg's guardianship law has been on the agenda for years, yet the legal framework still largely dates back to 1982. Therefore, the role of guardianship NGOs seems more important than ever, as they bring essential experience aligned with the CRPD from the ground up, which could inform a future reform. The participation of our NGO in this world congress is therefore a further contribution to this reform process. We look forward to Amsterdam 2026.

Short biography

Director and Co-Founder of the SAT – Service d'accompagnement tutélaire asbl Ettelbruck, Luxemburg.

Bob Pieters

Abstract

Personal guardianship by volunteers in the Netherlands, possibilities and challenges

The number of guardianship measures for adults in the Netherlands is about 421.000 and increasing with 20.000 each year at the moment. Most of these measures only deal with supporting the adult in taking care of his financial interests, in representing him and protecting his financial interests. In total, Dutch courts have appointed about 102.000 personal guardians, for which they prefer family members (if available).
In the absence of a legal representative from the family, the court will decide to appoint a professional legal representative. This professional legal representative may also be a legal entity such as the regional foundations of Mentorschap Nederland (RSM) that are part of Mentorschap Nederland. The Theywork with trained volunteers.
These (RSM) organizations are subject to strict quality requirements, including yearly reporting to the courts, and are responsible for recruiting, training, matching, supporting, and supervising volunteers. Their activities are explicitly aimed at enhancing the quality of life of the person under guardianship and achieving the best possible care outcomes.

In line with the CRPD, volunteer personal guardians are trained to exercise their legal authority only as a last resort and to prioritize the client's will and preferences whenever possible. The combined education, skills, life experience, and long-term commitment of volunteers constitute a significant form of human capital, enabling the RSM organizations to act in complex cases where professional guardianship may be less suitable. At the same time, important limitations remain, particularly in cases involving detention, forensic institutions, or persistent resistance by clients or family members.

Questions:

- How can legal representation / legal conditions relate to developments in the field of 'supported decision-making' within the framework of Article 12 of the UN Convention on the Rights of Persons with Disabilities?
- How does supported decision-making relate to legal requirements with regard to the protection of a person who lacks capacity?
- Volunteer-based guardianship (mentorschap) blurs the line between goodwill and legal responsibility.
- Volunteers are invaluable, but they also pose significant organizational challenges.

Short biography

Teamleader NGO, Mentorschap Nederland

Ali Türk

Abstract

Working with migrants under court-appointed legal adult guardianship in Germany

In Germany, approximately 1.2 million adults are under legal guardianship. We estimate that around 100,000 of them have a migration background. Our Institute for Transculturally Supported Decision-Making was founded in 1995 to offer support and legal guardianship services to adults with disabilities and a migration background in the Hannover region and Lower Saxony. Currently, our institute supports around 500 adults from 47 countries of origin with the help of over 15 employed professional guardians (lawyers and social workers) who speak more than 13 languages.
Our institute is the first and, to date, only organization in Germany (out of 800 NGOs) to specialize in the legal support and guardianship of adults with a migration background.
We would like to introduce you to our important work.
We live in a changing world. One conclusion of this presentation is that we need more NGOs in Germany and worldwide that offer legal support to people with a migration background.

Short biography

CEO and Co-Founder of the Institute for transculturally Supported Decision-Making, Hannover, Germany (Geschäftsführer, Institut für transkulturelle Betreuungen, Hannover, Deutschland)

Delia Jagersberger

Abstract

Austria's Adult Protection System: Structures, Roles, and Responsibilities

In Austria, adult protection is entrusted to four officially recognized, regionally operating non-profit organizations. These organizations, largely funded by the Federal Ministry of Justice, carry out clearly defined legal responsibilities. The Lower Austrian Association (NÖLV) is the second largest among them.

Across six offices throughout the federal state of Lower Austria, approximately 160 full-time professionals and 200 dedicated volunteers work to identify appropriate forms of legal representation for individuals who, due to mental illness or intellectual disabilities, require support in specific areas of their lives. Our professionals also play a key role in reviewing the legality of restrictive measures affecting individuals living in institutional settings.

Our mandate is firmly rooted in a clearly defined legal framework that has evolved over decades. Austria's current adult protection system—and the organizations entrusted with its implementation—has developed in various forms since the early 1980s, reflecting an ongoing commitment to balancing legal protection with personal autonomy.

It is a great pleasure for me to participate in this important international congress for the first time. I look forward to presenting both, my organization and Austria's approach to adult protection, as well as engaging in an exchange of ideas and experiences.

Short biography

Executive director, NÖ Landesverein für Erwachsenenschutz (Association for adult guardianship and conservatorship and residents' rights advocacy) Lower Austria, Austria

Session C - Care and Health

Anita Smith

Abstract

Do you need a guardian to access support services in Australia?

Australia has a National Disability Insurance Scheme, theoretically based on consumer choice and control, that provides accommodation and services for people under 65 years of age with disability. It is funded by the Federal Government. For people over 65 year of age, aged care services are provided through national legislation, but are mostly privately funded. Australia also has eight state/territory-based systems for appointment of guardians, which also apply principles of 'least restrictive alternative' and promote 'informal means' of decision-making for adults of all ages. When the national and state systems do not align, people with disabilities may be forced into having a guardian appointed to navigate complex systems and have a voice. Some aged care and disability providers will not accept clients or residents without a guardian being appointed, sometimes because of financial probity, insurance coverage, internal processes or just a misunderstanding of the law. This creates unacceptable inconsistencies with the principles arising under the UNCRPD, which are the underpinning aims of both national and state/territory based systems. This presentation addresses the gaps between UNCRPD compliant legislative aims and the practical requirements of agencies that provide disability and aged care supports.

Short biography

Anita Smith is a Tribunal Member with the Victorian Civil and Administrative Tribunal. From 2003 to 2016 Anita was the President of the Tasmanian Guardianship and Administration Board and from 2006 to 2016 she was the Chair of the Australian Guardianship and Administration Council. She was the Convenor of the 2012 World Congress on Adult Guardianship in Melbourne and has presented at the Yokohama, Japan 2010 and Washington DC, USA 2014 World Congresses.

Charlotte Termonia De Mulder & Frederik Swennen

Abstract

Substituted decision-making in highly personal and reproductive matters

In many legal systems, guardians are prohibited from substituting for a vulnerable adult in decisions deemed strictly personal. Belgium adopts this approach within its system of judicial protection by enumerating a set of highly personal matters that cannot be decided through representation or support. This presentation argues that the current list is overly expansive. First, it includes decisions—such as the petition for divorce—that allow for an objective assessment of the protected person's interests. Second, the blanket exclusion of consent to sterilization and abortion may, in certain cases, run counter to those interests. It is problematic that a guardian is prevented from supporting or representing a protected person in consenting to therapeutic sterilization or abortion. Moreover, substituted consent to contraceptive sterilization or elective abortion should be permissible where it serves the protected person's interests. This position, however, raises questions regarding compatibility with Articles 3 and 8 ECHR and with the UN Convention on the Rights of Persons with Disabilities. Reproductive decisions based on substituted consent may amount to prohibited forced medical treatment. The presentation therefore examines the substantive and procedural safeguards required for such decisions. At a minimum, the representative or support person must consider the physical and mental health implications of pregnancy or childbirth, the individual's own wishes regarding parenthood, and the foreseeable consequences of having a child. As decisions concerning sterilization and abortion may directly affect the (non-)birth of a future child, the analysis also considers whether, and if so how, the 'interests' of the potential child may legitimately factor into the decision-making process. Finally, the exclusion of consent to sterilization and abortion from representation appears inconsistent with Belgian legislation on patient rights, which allows representatives to provide informed consent on behalf of mentally incapacitated adults. In this context, the legislator has chosen mental capacity, rather than legal capacity, as the relevant criterion for exercising the right to informed consent to medical procedures. This raises the broader question of whether legal incapacity under judicial protection is the appropriate mechanism for addressing other personal decisions that are not strictly legal acts, such as the choice of residence and the exercise of contact rights.

Short biography Charlotte Termonia De Mulder

Charlotte Termonia De Mulder is researcher and teaching assistant in the field of law of persons and family law. She is a member of the research group personal rights and property rights. In January 2026 she will defend her PhD dissertation on the legal status and protection of unborn human life in Belgian law.

Short biography Frederik Swennen

Frederik Swennen is full professor of the law of persons and family law. His research projects focus on queer families, vulnerable adults and non-human entities in law. He is president of the International Society of Family Law and co-promoter of the UAntwerpen Research and Excellence Center FAMFLEX and promoter of RETHINKIN_. He teaches the law of persons, family law, international family law and children's rights & juvenile law. He is a member of the

High Council of Justice and president of the Trust Center for Child Abuse Antwerp. He is also Of Counsel at Deloitte Legal Lawyers.

Kees Dijkman

Abstract

Medical Research in Human Subjects with Incapacities

In 2017, the Dutch Medical Research in Human Subjects Act was expanded to cover research on people who are unable to decide for themselves if they want to participate. In the run-up to this, there was a lot of (legal and political) discussion. Should people with capacity issues be banned from this research? Can a legal representative or guardian help them decide, or possibly even decide for them? Proponents of the latter mainly advocated broader opportunities for research (increase of knowledge) and possible benefits for those involved (access to experimental treatments). But there were also doubts, especially from the corner of fundamental rights experts. Jos Dute, a legal scholar and member of the Dutch Board of Human Rights wrote at the time (NJB 2014/1679): 'Much worse is that soon within the EU and within the Netherlands, civilized countries, incapacitated test subjects can be subjected to far-reaching investigative acts, without [...] realizing that they are guinea pigs. The progress of medical science [...] should not be made on the backs of the weakest members of society.' These discussions led to a compromise: a legal representative can decide for people to participate in medical research, but only (1) if they can personally benefit from the research or (2) if the research is aimed at a specific group of incapacitated people and cannot be executed in any other way. In both cases there should be no risk of serious harm.

This was nine years ago. Have the doubts of fundamental rights experts proved to be justified? Does the law, with its strict provisions, offer sufficient protection? Are people indeed included in medical trials without their consent, solely on the basis of consent by a (legal) representative? How does this relate to the developments regarding guardianship in healthcare, where there is a development from substituted decision-making to supported decision-making whenever possible?

Short biography

For twelve years now, I study Dutch law in my spare time. In daily life a work as a self-employed communications and policy advisor. One of my main clients is Mentorschap Nederland, the Dutch organization that facilitates legal guardianship (mentorschap) by volunteers. So for me it was logical to aim the research for my master thesis on the position of people with incapacities and their (legal) guardians.

Gavin Davidson

Abstract

The use of technology for surveillance in mental health services

The use of technology for surveillance in mental health services presents a wide range of opportunities and challenges which involve complex ethical, rights-based, legal, effectiveness and practical considerations. Its use can involve the restriction or even deprivation of liberty. The Mental Health Commission in Ireland funded this evidence review of the use of technology for surveillance in mental health services to help inform the development of a Code of Practice to help navigate these complex issues. This presentation will cover the context of the review; the findings from the included studies (n = 202); a review of selected international standards and guidance; and discussion of the possible implications for developments in Ireland and internationally. The review includes consideration of: the definitions of types of technology; the legal and ethical debates that are involved; and a summary of some of the existing literature reviews on this subject. The findings focus on analysis of the research on the experiences and effectiveness of the use of technology for surveillance which is organised into the broad categories of: CCTV/video surveillance; body-worn cameras; multi-modal remote monitoring; and wearable devices. The included international standards and guidance are from a range of countries including Australia, Canada, Ireland, New Zealand and the UK. The review acknowledges that technology is already being widely used in mental health services and it does appear to have positive potential to contribute to mental health care and support. However, the research evidence is not yet sufficient to support the routine use of surveillance technology to improve safety, care quality or efficiency, and more independent, coproduced research is needed. There are also important other considerations, especially in relation to: potential unintended consequences; consent; training; governance; and monitoring. The review reinforces the need for a rights-based, trauma-informed and person-centred approach to the use of technology, especially in the context of restriction or deprivation of liberty. It highlights some of the key components for a Code of Practice, which include: principles to guide decision-making processes; the need for services to have the necessary policies and procedures; the importance of consultation, consent and safeguards; data protection; staffing and staff training; and arrangements for monitoring, review and reporting.

Short biography

Gavin Davidson is a Professor and Praxis Chair of Social Care at Queen's University Belfast in Northern Ireland. Before moving to Queen's he worked as a social worker in mental health services. His main research interests are in the area of mental health, specifically: the effectiveness of mental health services; the social determinants of mental health; human rights and mental health/mental capacity legislation; and the associations between adverse childhood experiences and mental health. He is the Programme Director for the MSc in Mental Health and Mental Capacity Law at Queen's and is involved in the ongoing implementation of the Mental Capacity Act (Northern Ireland) 2016.

Eunju Sim

Abstract

Institutional Roles in the Service Delivery System of Korea's Dementia Public Guardianship Program

This study examines the current delivery system of Korea's dementia public guardianship program and proposes strategies to improve service quality and better align the system with the needs of service users. Although the program has been operating since 2018, its progress has been slow. A key reason is that guardianship services are situated within a dementia care network that was originally designed for medical and care-oriented support. Because of this structure, it is difficult for the system to provide the legal and rights-based assistance that guardianship requires. Drawing on the principles of coordination, accessibility, appropriateness, professionalism, and accountability, this study identifies structural issues within the existing delivery system and analyzes how these issues limit service effectiveness. The findings highlight several challenges, including unclear institutional roles, limited legal expertise, and fragmented referral pathways. These gaps make it difficult for practitioners to offer consistent support and reduce the accessibility of guardianship services for adults with cognitive impairment. To address these problems, the study suggests developing regional guardianship corporations, building cooperative networks with organizations that serve people with intellectual and psychosocial disabilities, and establishing dedicated guardianship teams within regional dementia centers to support both community centers and the national center. Training and cultivating professional guardians at the regional level is also a critical step. More immediate improvements include strengthening the supervisory role of community dementia centers, enhancing support systems for guardians' activities, and revising compensation structures to ensure more stable service delivery. By focusing on the delivery system itself—an area that has received little attention in previous research—this study offers practical insights into how Korea's dementia public guardianship program can become more responsive, accessible, and aligned with the rights and needs of its users. Improving the delivery structure is essential not only for service efficiency but also for ensuring that guardianship fulfills its intended protective and supportive role.

Short biography

Eunju Sim works at the Gyeongnam Metropolitan Dementia Center, where she is involved in coordinating and developing community-based dementia services, including Korea's public guardianship program. Her professional and research interests focus on service delivery systems, decision-making support, and rights-based approaches for older adults with cognitive impairment. She integrates frontline practice with system-level analysis and has carried out several practice-informed studies aimed at improving access, effectiveness, and institutional collaboration within dementia support services.

Session D - Capacity and Safeguarding

Rosie Harding

Abstract

Maximising financial capacity through support and safeguards

In this paper I use the novel conceptual framework of 'polyphonic legality', which I develop through my current monograph project, to explore the ways in which legal support frameworks and safeguards can operate together to maximise financial capacity for adults with impairments that impact their financial decision-making capabilities. I draw on qualitative data from a series of interconnected empirical studies, alongside doctrinal analysis of the benefits and limitations of supported decision-making, Lasting Power of Attorney and deputyship frameworks. Through examples from my research in the UK, I explore how restrictive rules around accessing bank accounts, everyday banking services and online and mobile banking apps can prevent cognitively disabled people from developing and retaining financial management skills, which are crucial for enabling independent living and protection from financial abuse. Through my analysis, I explore the ways that rules created and implemented by financial institutions, and the support disabled people receive from their family carers and personal assistants, shape cognitively disabled people's financial lives. I argue that better approaches are needed to maximise financial capacity in alignment with domestic law (the Mental Capacity Act 2005 and the Equality Act 2010) and the UN Convention on the Rights of Persons with Disabilities.

Short biography

Rosie Harding (LLB, LLM, PhD, FAcSS) is Professor of Law and Society, Birmingham Law School, University of Birmingham. Her research focuses on social justice and human rights in family, health and social care law. She is author of Duties to Care: Dementia, Relationality, Law (CUP, 2017) and Regulating Sexuality (Routledge, 2011) and editor of Supporting Legal Capacity in Socio-Legal Context (Hart, 2022), ReValuing Care in Theory, Law and Policy (Routledge, 2017) and Ageing and Sexualities: Interdisciplinary Perspectives (Ashgate, 2016). She is series editor of Law, Society, Policy (Bristol University Press). She was awarded a Philip Leverhulme Prize for law (2017). She was Chair of the Socio-Legal Studies Association from 2017 – 2022. She is a Fellow of the Academy of Social Sciences, an Honorary Bencher of Middle Temple, and a Charity Trustee of Changing our Lives.

Henna Nikumaa

Abstract

Social and Healthcare Professional Assessing Legal Capacity and People with Dementia Experiencing It

Background Several scales, guidelines and tools have been constructed to assess the different aspects of legal capacity. In Finland, these tools are not used, and there are no guidelines, procedure or uniform criteria for assessing legal capacity. This study scrutinized how social and healthcare professionals assess the legal capacity of people with dementia (PwD) and how they experience the assessment process. Methods The data consists of interviews with 16 PwD (interviewed twice) and 98 professionals. The data was analysed using abductive content analysis. Findings The findings reveal that professionals assess legal capacity very frequently, yet they expressed uncertainty about the process. They had no tools, tests, or criteria available. Instead, they often relied on informal, relational cues, and standards of rationality influenced their judgments. Professionals did not recognize differences in assessing capacity across contexts, and the concepts of legal capacity and everyday decision making capacity became conflated. Legal capacity was perceived in a binary way: one either has it or does not. PwD described their capacity as situational: while complex legal matters could be challenging, everyday decision making capacity remained. They emphasized the importance of being recognized as individuals and of having the possibility to make irrational choices. They did not know how or by whom their capacity had been assessed, and many assumed that physicians appoint guardians. PwD reported feeling excluded and overlooked in the assessments. They greatly valued the involvement of family members – although many had experiences of family members' opinions dominating. Both interview groups regarded legal capacity as a cornerstone of autonomy. They also shared the assumption that substitute decision making rights for a PwD always automatically belong to a family member – even without any formal authorization. Conclusion The findings show that legal capacity remains the cornerstone of autonomy of PwD, yet assumptions by professionals often prematurely diminish it. Cognitive decline was interpreted as an automatic loss of capacity. Tools are needed to support the assessment process, as well as information on the different aspects of legal capacity. The role of family members is important to acknowledge and relationality should be supported. Relationality can, however, become problematic when it dominates overriding the person's healthy or presumed healthy will.

Short biography

Henna Nikumaa (PhD in Law) works as a postdoctoral researcher in Law and Ageing at Center of Law and Welfare and Neuroscience Research Community at University of Eastern Finland. In her research she is interested in the rights of older people and people with disability as well as challenges of autonomy and protection of people with dementia. Nikumaa has worked over 20 years in various positions in the field of social and healthcare for older people. Especially she has led projects that scrutinized later life legal planning, guardianship services and equality of older people. She is a member of the European Law and Ageing Network (ELAN) and a co-founder and chairperson of the Finnish network of Elder Law Experts (VAASI).

Adrian Ward

Abstract

Capacity versus vulnerability, and other World Congress themes

My presentation will review themes running through recent World Congresses and where they may be leading us. I shall briefly review: the updating of the Yokohama Declaration in 2016, and its implications; the trends underlying the development of World Congress titles – Guardianship to Capacity, also Support and Care; development from aspirational principles to practical realisation – support, autonomy and self-determination, attributable duties; the implementation gap; the tension between concepts of rights being universal, attaching to "everyone" and "no-one"; and rights for categories of people to whom a particular label has been attached – Conventions for people with disabilities, older people. I shall then track and discuss "capacity -v- vulnerability" as an element in the trajectory of recent Congresses, starting with the summing-up by Prof Wayne Martin at the 2022 Congress. He suggested that the many and varied contributions to that Congress reflected "a shared understanding of a common challenge" for which he suggested this explicit formulation: "How shall we devise new regimes of legal capacity which are respectful of the rights of older persons and persons with disabilities, and which are maximally inclusive of populations that were previously excluded from full recognition in society?" Hitherto, concepts of capacity/incapacity have dominated. Do we actually know what "(mental) capacity" means, or are we left going round in circular definitions and grasping at thin air? In 2024 we heard much about "vulnerability". Is assessment of vulnerabilities and their consequences more useful and less discriminatory? Does focus on "capacity" obscure the importance of recognising the impact of undue influence, coercive control and other factors upon technically capacitous acts and decisions? A greater focus on vulnerabilities would identify and respect the endless variety of potential vulnerabilities, multiplied by the degree of impact in individual cases of each. It would more easily accommodate short-term fluctuations in particular impacts. On "capacity or vulnerability?", I shall argue "both, selectively in each case", with capacity more likely to predominate in matters of property and finances where transactional certainty is needed; while the more variable nuances of vulnerabilities may have greater relevance in health and welfare matters; but recognising the areas of overlap between the two.

Short biography

Selectively, relevant for this topic, significant roles including as plenary speaker at all World Congresses 2016 – 2024; member of working party preparing revised Yokohama Declaration adopted in 2016; founder and ongoing member of International Advisory Board and its Steering Group; President of organising committee of 2022 World Congress; gave closing summing-up at 2024 Congress. For more, see biography with my other abstract.

Danielle McIlroy

Abstract

Three-stage model to support decision-making

The Three-Stage Model to support Decision-making was influenced by a review of relevant literature including Bigby and Douglas (2020) and has been developed based on the findings of the PhD Research completed by McIlroy, Montgomery and Davidson (2023). Best Interests decisions are often made when an individual has been assessed to lack capacity to make a specific decision. The Three-stage model aims to demonstrate how an individual who lacks capacity to make a specific decision can be afforded the same principles as those who have capacity to make a decision (McIlroy et al, 2023). The model proposes that Best Interests decisions are made following a three stage process, option – choice – decision, when an individual lacks capacity to make the decision themselves. Each of these stages are underpinned by nine support principles which are: communication, inclusion, self-determination, special regard, person-centered practice, human rights, consideration of positive and negative outcomes, advocacy and review. The Best Interests decision should not be made unless all stages in the process are followed and accompanying principles are considered so far as is practicable. The Department of Health in Northern Ireland has commissioned a pilot study based on the Three Stage model to support decision-making. An objective of the study is to develop a form that reflects the Three Stage model to support decision-making and to improve the consistency of Best Interests decision-making for practitioners working with individuals who lack capacity. This study is currently progressing and is due for completion in March 2026. It is anticipated that the results of this pilot will be available for WCAC presentation in July 2026.

Short biography

Dr Danielle McIlroy is lecturer in Social Work in Queen's University. Danielle is a qualified social worker and has worked within statutory learning disability services in Northern Ireland. She is also trained as an Approved Social Worker, practicing under the Mental Health (Northern Ireland) Order 1986 and the Mental Capacity Act (Northern Ireland) 2016. Danielle's PhD research explored decision-making processes within learning disability services. Her research interests include learning disability, mental health, and mental capacity, with a particular focus on decision-making approaches for individuals who lack capacity.

Session E - Balancing Rights

Michael Hagenlock

Abstract

Strengthening Social Justice: APS Policy Evolution, Federal Standards, and Advocacy Strategies

Adult Protective Services (APS) programs are the cornerstone of safeguarding adults from abuse, neglect, and exploitation. Historically authorized at the state level in the United States, APS has operated without a unified national framework, resulting in significant variability in definitions, eligibility, and service delivery. Recent federal actions have marked a transformative shift toward standardization and accountability. This presentation examines the evolution of APS policy, culminating in the Administration for Community Living's (ACL) 2024 final rule on APS Functions and Grant Programs, the first comprehensive federal regulation establishing baseline standards for APS nationwide.

Key provisions include person-directed, least restrictive values; common terminology; electronic reporting requirements; tiered risk assessments; and mandated five-year state plans with annual data reporting. We will explore implications for practice, such as feedback protocols for mandated reporters, conflict-of-interest safeguards, and coordination mandates across agencies. The session also highlights intersections with other federal regulations, including updates to the Older Americans Act and the Centers for Medicare & Medicaid Services Access Rule, which introduce electronic incident management systems and broaden data-sharing obligations.

Funding challenges remain critical. While APS programs rely heavily on state and local revenues supplemented by the Social Services Block Grant, recent appropriations and emergency funding have provided unprecedented federal support. However, sustainability is threatened by budget reconciliation processes and proposed administrative restructuring. Participants will gain insight into advocacy strategies to protect APS funding and ensure compliance with new mandates.

Through historical context, regulatory analysis, and discussion of future funding landscapes, this session equips stakeholders worldwide with knowledge to navigate policy changes, strengthen protective systems, and advance elder justice. Interactive dialogue will explore lessons for international frameworks, offering actionable steps to safeguard vulnerable adults while honoring autonomy and self-determination.

Short biography

MSW, LCSW, LAC – Doctorate Candidate, DSW in Social Work, University of Kentucky Michael has over 25 years of experience working with law enforcement, Adult Protective Services programs, and allied professionals on elder justice issues and behavioral health-related disorders. Michael works for the National Adult Protective Services Association (NAPSA) as the Chief Financial Officer and Subject Matter Expert on Elder Justice Topics. Michael is a member of the National Network of State Elder Justice Coalitions, the National Guardianship Association, the National Guardianship Network, and the National Association of Social Workers. Michael has a master's degree in social work and is in the final year of the Doctor of Social Work Program. Michael is a Licensed Clinical Social Worker and Licensed Addiction Counselor in Montana.

Carla Fadlallah

Abstract

Advancing Older Persons' Rights: International Standards, Community Support & Digital Innovation

On April 3, 2025, the UN Human Rights Council launched an intergovernmental process to draft a new convention on the rights of older persons, responding to persistent violations such as violence, age-based discrimination, social exclusion and inadequate access to care and support. Although no specific UN convention exists yet, regional instruments and global treaties like the CRPD and CEDAW offer key guidance on autonomy, non-discrimination and participation in later life. Lessons from the CRPD's recognition of universal legal capacity and the obligation to provide decision-making support are highly relevant for older persons, with or without disability. CEDAW's focus on structural and intersectional discrimination, especially against older women, underlines the need for age- and gender-sensitive protections in the future treaty. In Catalonia, Support-Girona operationalises these principles through the community-based programme "Ageing at Home", which aims to prolong older persons' stay in their own homes with tailored supports, prevention of isolation and stronger participation in community life. Remaining at home is understood not as being alone or dependent, but as living with supports that guarantee dignity, self-determination and social inclusion. The programme mobilises community networks, professional support and volunteering, shifting from a purely care-based model to an enabling system of supports. From 2026, "Ageing at Home" will integrate the Vivelibre digital ecosystem, which monitors daily activity patterns, detects risks such as falls or sudden changes, and connects with professionals when needed. Used with informed consent, accessible interfaces and safeguards for autonomy, Vivelibre seeks to enable earlier, preventive interventions, reinforce safety and extend independent living without replacing human support or personal relationships. This experience illustrates how local, rights-based initiatives can inform and enrich the emerging international convention on the rights of older persons.

Short biography

Graduated in Political Science and Government by the University of Barcelona and with a LLM on International Law by the University of the West of England. Specializing in International Project Management in the field of Human Rights protection.

Renato Antonio Constantino Caycho

Abstract

Absent safeguards: The problems of the Legal Capacity Reform in Peru

In 2018, Peru adopted one of the most ambitious legal capacity reforms in the Global South through Legislative Decree No. 1384, aligning domestic law with Article 12 of the Convention on the Rights of Persons with Disabilities (CRPD). The reform abolished disability-based guardianship and replaced it with a system of supports and safeguards intended to enable persons with disabilities to exercise legal capacity on an equal basis with others. In this presentation, I will explore about safeguards in the Peruvian Reform.
While support is a term widely discussed in academia, safeguards (and their implementation) remain a mystery in several aspects. In Peru, a previous work shows that the transformation promised by the reform remains partial. Judicial practice frequently reproduces patterns of substituted decision-making, despite the formal shift toward supported decision-making.
A key explanation for this gap lies in the limited development of safeguards in both legislation and judicial practice. While the Peruvian framework formally recognizes mechanisms such as judicial review, monitoring measures, and safeguards determined by judges or by the person concerned, these provisions remain broadly defined and insufficiently operationalized. Consequently, courts often appoint supports without adequately assessing risks of undue influence, conflicts of interest, or power imbalances. The absence of individualized and enforceable safeguards undermines the central objective of Article 12 of the CRPD: ensuring that support arrangements respect the person's will and preferences rather than replacing them.
In this presentation, I will present how safeguards can be the answer to carefully generate equilibrium between autonomy and protection in Peru and in other countries that are reforming their own legal frameworks.

Short biography

Renato Antonio Constantino Caycho is an Assistant Professor at the Law Department of the Pontificia Universidad Católica del Perú. He is currently the Coordinator of the Research Interdisciplinary Group on Disability (GRIDIS – PUCP) of the same university. He holds a Law degree and a Master of Arts in Human Rights from the same university. He also holds a Master of Laws in International Legal Studies from American University – Washington College of Law.

Seonmi Jang & Hyojung Kim

Abstract

Supported Legal Personhood and Human-Centered Decision-Making in the AI Era

The pervasive integration of artificial intelligence (AI) into critical public sectors (healthcare, social welfare, legal processes) necessitates a fundamental re-conceptualization of human decision-making and legal personhood. While AI offers promising opportunities for empowering vulnerable populations, it simultaneously poses a structural hazard: the risk of epistemic substitution, where automated outputs displace human judgment. This displacement reduces the individual from a subject of decision to an object of technological management, thus eroding constitutional dignity. This paper argues that preserving human agency demands establishing clear constitutional boundaries. Drawing on vulnerability theory (Fineman) and relational personhood theory (Herring), we move beyond rational autonomy to a concept where dignity is sustained through social and institutional support. Within this relational frame, constitutional self-determination includes the right to be supported in one's choices. When AI acts as the source of decision, it undermines formal subjectivity and the basis of agency and self-determination protected under instruments like Constitutions and the CRPD. The paper precisely delineates constitutionally legitimate support from illegitimate substitution. AI functions that summarize information, facilitate comprehension, or enhance participation legitimately strengthen autonomy. Conversely, automated risk scoring, benefit determinations, or approval processes constitute substitution, violating the essential content of self-determination. This distinction is reinforced by the capability approach (Sen, Nussbaum), which demands cultivating digital capabilities to ensure freedom is a real ability to choose. Care ethics (Kittay, Tronto) further confirms AI cannot replace the relational, moral elements essential to human-centered care. Synthesizing these insights, the paper proposes a Supported Legal Personhood System (SLPS)—a multi-layered framework integrating law, welfare policy, technological design, and community networks. SLPS codifies supported autonomy, mandates transparent AI oversight, and ensures AI operates exclusively as a constitutional mediator, reinforcing human decision-making capacity. The SLPS offers a normative blueprint for digital governance, ensuring technology enhances self-determination without sacrificing human agency.

Short biography Seonmi Jang & Hyojung Kim

Dr. Seonmi Jang and Dr. Hyojung Kim's collaborative research integrates legal and social welfare perspectives to establish a human-centered digital governance framework, addressing AI's challenges to autonomy.

Dr. Seonmi Jang (Research Professor, Kookmin University; Ph.D. in Law, 2019) develops new constitutional theories focusing on preventing epistemic substitution (AI displacing human judgment). Her key contribution is the Supported Legal Personhood System (SLPS), a normative blueprint ensuring AI mediates constitutionally to reinforce human decision-making capacity.

Dr. Hyojung Kim (Research Fellow, Korean Research Center for Guardianship and Trusts; Ph.D. in Social Welfare) provides the practical focus. Specializing in supported decision-making and public trusts for older adults, her engagement ensures the translation of theoretical legal frameworks into actionable policy and welfare design.

Session F - Panel Digitalization 'Digital Identification & Representation: A Comparative Approach to Legal Gaps in Protecting Older Adults'

Katja Karjalainen

Panel Session

Panel Digitalization 'Digital Identification & Representation: A Comparative Approach to Legal Gaps in Protecting Older Adults'

The ongoing digitalisation of public and private services increasingly relies on strong electronic identification systems as a gateway to essential legal, financial and personal transactions. While these developments enhance efficiency, security and legal certainty, they also generate new forms of vulnerability for older adults who depend on assistance or representation in digital environments.

This panel brings together two closely interacting research projects. First, the e-Adult research project compares how legal systems in the Nordic Countries (Finland, Sweden, Norway), the Low Countries (Belgium and the Netherlands) and Estonia address the accessibility of these digital services and regulate assistance and representation of older adults within digital platforms. The specific focus of the e-Adult project lies in identifying legal gaps and unmet needs in safeguarding the personal autonomy and interests of vulnerable older adults in situations where financial matters (e.g. daily banking) and personal matters (e.g. health care) are handled through digital platforms. Second, the panel builds on the contribution proposed in the abstract submitted separately by project members Marte Eidsand Kjørve and Tone Linn Wærstad. Accordingly, this panel examines how legislation in the jurisdictions under comparison either facilitates or hinders vulnerable older adults in exercising their right to personal autonomy, and in having that right respected in the digital context. In particular, the panel sheds light on how private and family law respond to the changing legal environment marked by the transition from a tangible to a digital context.

Questions examined in the panel:
1) What legal gaps exist accross the different jurisdictions regarding the allocation and use of e-identification credentials (e.g. tokens) for vulnereble older adults and/or their formal or informal representatives or helpers?
2) Are there specific rules governing the use of existing legal instruments for the purpose of representing and assisting older adults in a digital context?
3) How does EU legislation take/or not take into account the rights and needs of vulnerable adults (e.g. European Digital Identity Wallet (EDIW))?
4) What are the strengths and weaknesses of the existing legal frameworks? What foreseeable legal measures enhance safeguards, eliminate discriminatory practices, and strengthen the right to personal autonomy of vulnerable adults in digital environments?

Contributors:
- Katja Karjalainen, Professor of Law and Welfare, University of Lapland (Finland).
- Elisabeth Alofs, Full Professor of Family Law, Vrije Universiteit Brussel.
- Katrine Kjærheim Fredwall, Professor of Civil Law, University of Oslo
- Marte Eidsand Kjørven, Professor of Law, University of Oslo
- Rieneke Stelma-Roorda, Assistant Professor of Family Law and the Law of Persons, Vrije Universiteit Amsterdam.

Marte Eidsand Kjørven

Abstract

Supported Decision-Making Meets "Sole Control": A Structural Conflict in Digital Identity Law

The rapid digitalisation of public and private services is increasingly reshaping how adults are expected to exercise autonomy. In European digital identity systems, this shift is exemplified by the principle of "sole control", which underpins the European Digital Identity Wallet (EDIW) introduced by the eIDAS 2.0 Regulation. This presentation argues that the concept of sole control reflects a model of autonomy that is fundamentally misaligned with contemporary human rights standards and adult capacity law.

Based on a recently published article in Computer Law & Security Review (Safe and inclusive or unsafe and discriminatory? European digital identity wallets and the challenges of 'sole control'), the presentation explores how EU digital identity law embeds an individualised, independence-based understanding of autonomy that assumes adults can exercise exclusive and continuous control over their digital identity. In contrast, adult capacity law and human rights—most notably the UN Convention on the Rights of Persons with Disabilities—are built on a relational model of autonomy that recognises dependency, supported decision-making, and vulnerability as ordinary features of adult life.

Drawing on empirical and legal experiences from highly digitalised Scandinavian countries, the presentation shows how this normative gap has concrete consequences. Adults who require support are excluded from essential digital services because they cannot meet the legal and technical requirements of sole control. At the same time, adults who are exposed to fraud, coercion, or abuse are often held legally and financially responsible when their digital identity is misused, precisely because the system presumes independent control.

The presentation argues that these outcomes are not accidental but stem from a structural disconnect between capacity law and digital identity governance. It concludes by outlining how digital identity systems could be re-aligned with adult capacity principles, including recognition of assisted use, supported decision-making, and tailored safeguards, in order to ensure that digitalisation enhances—rather than undermines—autonomy for adults in need of support.

Short biography

Is Professor of Law and Project Manager of the Societal Security and Digital Identities project, funded by the Norwegian Research Council. Her research focuses on digital identity, financial services, autonomy, and human rights, with particular attention to fraud, coercion, and inclusion.

Session G - Ethical and Cultural Aspects

Carla Fadlallah & Sergi Martínez

Abstract

Cross-Border Support and Protection for Persons with Disabilities in the Pyrenees: The CIMER Project

The CIMER (Inclusive Communities in the Pyrenees) project is a cross-border initiative funded by the European Regional Development Fund under the Interreg POCTEFA program. It aims to foster inclusive, supportive, and sustainable rural communities across Spain and France, focusing on promoting autonomy and quality of life for people with disabilities and older adults in line with Article 19 of the UN Convention on the Rights of Persons with Disabilities. CIMER employs a participatory, cross-border approach involving eight partners from social services, associations, and foundations working together across the Pyrenees. The initiative operates through "Living Labs" where participants, especially those with disabilities, co-design solutions by identifying needs and proposing actions for independent living in mountain areas. The first Territorial Report from the Living Labs presents participant-driven proposals such as creating mediation roles between families and individuals, developing unified assessments tailored to individual support needs, and generating publicly funded mobility resources to ease transportation challenges in remote mountain areas. CIMER also established a "School of Independent Living" to empower vulnerable individuals and train social care professionals. Fundació Support Girona contributes a mentorship-training program delivered in Spanish and French universities to enhance cross-border knowledge sharing, where mentors with lived experience support others. Technological pilots complement social actions, including non-intrusive monitoring, personalized tele-assistance to enhance safety and autonomy in remote rural zones, and a mobile Family Support Center expanding social service access in isolated locations. To ensure long-term sustainability, the project formalizes structures through the creation of a "Mountain Villages Association for Independent Living," which will continue promoting inclusive practices beyond the project's lifespan, offering ongoing platforms for cooperation and exchange. This multi-faceted approach represents a significant step toward rural inclusion and independent living for vulnerable populations in the Pyrenees region.

Short biography Carla Fadlallah

Carla Fadlallah Graduated in Political Scienceand Government by the University of Barcelona and with a LLM on International Law by the University of the West of England. Specializing in International Project Management in the field of Human Rights protection.

Short biography Sergi Martínez

Sergi Martínez is a criminologist and psychologist, holding a degree in Criminology from the University of Girona and a degree in Psychology from UNED, where he specialized in Health Psychology. He further complements these disciplines with postgraduate studies in civil, family, and community mediation, along with a specialization in financial strategy and management. Additionally, he has accredited training in emergency psychology and behavioural issues. On the other hand, he works in Support-Girona as project developer.

Simon van der Weele

Abstract

Guardianship beyond decision-making? Notes towards a broadened ethical theory of guardianship

What does it mean to be a good legal guardian? The ethical literature is largely silent on this question. To the extent that ethical literature discusses guardianship, it is almost always under the rubric of surrogate or supported decision-making (e.g. Buchanan & Brock 1990; Cantor 2005; Peterson et al. 2021). The assumption seems to be that good guardianship entails good decision-making, as this is the primary activity around which guardianship revolves. Hence, there seems to be no ethical literature on the specific role of guardianship as such. This paper explores whether the ethics of guardianship are sufficiently covered and understood by the ethical decision-making literature – or whether there is need for an ethical discourse focused on guardianship qua guardianship. To do so, the article investigates descriptions of the guardianship role from legal and governmental institutions in the Netherlands, and from the Dutch ethical code for professional and volunteer guardians. It also analyses anecdotal vignettes from professional Dutch guardianship practice. The paper argues that these divergent sources all point towards the same conclusion: that the guardianship role must be understood as more variegated than the ethical literature suggests, i.e. than solely focused on decision-making. In particular, the ethical literature fails to notice the many ways in which guardians are tasked with the cultivation of relationships between the guardian and the ward. Hence, significant parts of the role and role conception of guardians seem to be invisible to ethicists. This conclusion is problematic, because it means there is currently no theoretically informed ethical guidance available for these relation-building parts of the guardianship role. Drawing on resources from care ethics (Tronto 1993; Walker 1997) and empirical ethics (Pols 2023; Van der Weele 2024), the paper considers several pathways for ethicists to reconceptualize guardianship ethics in broader terms and begin the work of formulating an ethics of guardianship that aligns with the guardian's role in practice.

Short biography

I am a philosopher and ethnographer connected to the University of Humanistic Studies in Utrecht, the Netherlands. My research brings together ethics and anthropology to study the everyday ethics of professional care and assistance for people with profound intellectual disabilities. I do this to challenge and rethink ethical discourse on issues of intellectual disability. My work has appeared in Medicine, Health Care and Philosophy, Hypatia, Medicine, Culture, and Psychiatry, and Disability & Society, amongst others.

Nelis van Steenoven

Abstract

Autonomy as a Human Right or a Privilege?

How are the dignity and human rights of adults who require support safeguarded in the Netherlands? Although the Netherlands has ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), the national legal framework has not been aligned with the principles of this convention. Within this tension lies a fundamental question: is autonomy for people with disabilities in the Netherlands recognized as a human right, or is it treated in practice as a privilege?

Autonomy is explicitly anchored in the CRPD. Yet Dutch practice reveals a persistent tension between legal recognition and actual implementation. Courts emphasize that guardians must respect the autonomy of the individuals they support. For example, the Rechtbank Gelderland stated that promoting autonomy must be a guiding principle in the execution of guardianship in light of the CRPD. The Rechtbank Limburg further ruled that guardianship constitutes a significant interference with private life and must therefore be kept to a minimum. Nevertheless, in practice, a structural lack of personal contact, standardized solutions, and substitute decision-making often remain the norm.

This presentation explores how a culture of overprotection, rooted in an ableist view of humanity, creates barriers for people with disabilities. Protection frequently takes precedence over self-determination, rendering autonomy effectively conditional and optional. The core question is not whether protection is sometimes necessary, but how safeguards can be designed in such a way that they support autonomy rather than replace it.

Drawing on legal frameworks and practical examples, this contribution illustrates how inclusive decision-making can take shape in practice. Central to this is the professional's view of the person: only those who not only know the CRPD but truly embody it can contribute to inclusion. Autonomy is not a privilege, but a human right that must be actively realized.

Short biography

Nelis van Steenoven has worked as a professional guardian since 2017. In 2021, he founded Inversie Bewind (Inversion Guardianship). Inversie Bewind is based on the UN Convention on the Rights of Persons with Disabilities. No overprotection, but inclusive decision-making.

Tomasz Tuczapski

Abstract

When Protection Triggers Arrest: Legal Capacity of HRDs under EAW and Interpol Systems

Human rights defenders (HRDs) and refugees are formally recognised as persons requiring enhanced protection under international and regional human rights frameworks. However, in practice, the interaction between criminal cooperation instruments, migration control mechanisms, and automated law-enforcement databases increasingly exposes protected individuals to immediate deprivation of liberty without any prior judicial assessment of risks to fundamental rights.

This paper analyses how European Arrest Warrants (EAW) and Interpol diffusion mechanisms operate as cross-border triggers of detention that bypass ex ante judicial scrutiny in the executing state. For individuals engaged in peaceful human rights activity or benefiting from international protection, arrest is often foreseeable, automatic, and procedurally irreversible, with legal remedies available only after liberty has already been lost.

The analysis demonstrates that this procedural architecture effectively neutralises legal capacity in its practical dimension. While individuals retain formal legal standing, they are deprived of any meaningful opportunity to participate in decisions that directly affect their liberty, safety, and professional activity. Legal capacity is thus reduced to a post-factum procedural fiction, incompatible with contemporary human rights standards requiring effective, timely, and participatory safeguards.

Drawing on EU fundamental rights law, refugee protection standards, and emerging jurisprudence on transnational repression, the paper argues that cross-border enforcement systems currently fail to integrate vulnerability and defender status into their operational design. The absence of mandatory ex ante judicial gates transforms protection frameworks into mechanisms that may unintentionally facilitate persecution through legal and administrative instruments.

The paper proposes reconceptualising legal capacity as a procedural condition shaped by institutional architecture rather than solely as an individual attribute. It suggests that access to preventive judicial review should be recognised as an inherent component of legal capacity in cross-border contexts, particularly where state action foreseeably results in deprivation of liberty. Without such safeguards, international protection regimes risk becoming structurally inconsistent with their own protective objectives.

Short biography

Tomasz Tuczapski is a political refugee and human rights lawyer specialising in the protection of human rights defenders exposed to transnational repression. He serves as Secretary General of the International Council for the Protection of Human Rights Defenders, where he designs and implements operational protection models grounded in international and regional human rights law. His work focuses on the misuse of cross-border enforcement mechanisms, including European Arrest Warrants and Interpol cooperation, against individuals engaged in peaceful civic and human rights activity. He has advised civil society organisations and international bodies on procedural safeguards and institutional accountability in cases of legal

harassment and forced displacement. He is currently a candidate for the UN Special Rapporteur on Human Rights Defenders mandate.

Ortrun Kliche

Abstract

Supported Decision Making in Healthcare begins in Medical Education

Medical care for people with disabilities, who are supported by relatives or court-appointed legal representatives (in Germany: Rechtliche Betreuer) is repeatedly perceived as unsatisfactory or challenging by patients, healthcare providers and representatives alike (DGGG et al. 2020, 47; Domenig 2021, 172). A key problem is the exclusion or non-involvement of patients in decision-making, or the devaluation of their statements (Carel & Kidd 2014). This goes hand in hand with a strong focus by many healthcare providers on patients' legal representatives or accompanying relatives, without whom no decisions are made (Kaiser & Gödeke 2023). This delays treatments and prolongs hospital stays. Sometimes, it seems to be based on a simple lack of knowledge about what legal representation means. Sometimes, however, there is also a lack of the appropriate communication skills to engage in dialogue with the patients and enable them to use their resources and achieve self-determination. And finally, there is a lack of good cooperation between medical professionals and representatives to provide adequate support to the patients in accordance with their wishes. These issues are addressed in a mandatory course for medical students in year 5. In this course, students simulate a conversation with an elderly patient and her adult daughter (patient's condition following reduced general condition due to pyelonephritis and mild hypoactive delirium the previous day). After discussing the simulated interaction, its challenges, and solution strategies, legal representation (Rechtliche Betreuung) in the context of healthcare is examined. My contribution will provide an overview of the training course and identify difficulties in medical communication and cooperation that arise in these simulations. It will also provide insights into how students reflect on the importance of the topic, their prior knowledge, and their own experiences in clinical traineeships (and sometimes as affected family members).

Short biography

Research assistant and lecturer in medical education for ethical and communicative aspects in physician-patient-interaction (since 2009); trainer for communication in health and social care, translator. Research on physicians' communication with diverse patients and triadic conversation in healthcare (e.g. with language interpreters or representatives); simulated doctor-patient-encounters (a training and assessment method in medical education); ethical aspects of interpreting in healthcare. Collaborator in the DFG project „Development and Evaluation of an Interpreter Training Module for Bilingual Hospital Employees" (Collaborative Research Centre on Multilingualism, Hamburg University, 2008-2011) and EU-projects on interpreting in health and social care.

Session H - Ethics, Personal Affairs and Legal Aid

Amber Jans

Abstract

It Takes Two: the legal challenges of dementia in registered partnerships in Belgium

Dementia presents a growing challenge for legal systems worldwide amidst demographic ageing. This research examines the legal complexities faced by individuals with dementia and their partners within registered partnerships (marriage or legal cohabitation), focusing on the Belgian legal framework. Grounded in fundamental human rights principles – respect for private and family life (art. 8 ECHR) and the right to equal treatment before the law (art. 12 CRPD) – this research explores how adult protection measures and relational measures interact within Belgian legislation. Article 12 CRPD emphasizes equality and non-discrimination, specifically in the context of legal capacity. However, applying the CRPD to individuals with dementia raises critical questions. Dementia is a progressive condition requiring evolving support mechanisms tailored to the individual's changing needs. Limiting legal capacity in light of art. 12 CRPD often undermines autonomy and infringes upon the rights to private and family life, presenting significant human rights concerns. Next to that, Belgian law employs two parallel mechanisms: adult protection measures, focussing on the individual, and relational measures (e.g. matrimonial property law) focussing on the relationship. These mechanisms often operate simultaneously, in the same relationship, affecting the same individuals. This dual approach creates legal and practical tensions, particularly regarding the competing interests of autonomy, protection, and relational continuity. This research highlights the distinctions between these mechanisms and their implications for the diverse interests involved, considering Belgium's human rights obligations. Persons with dementia always remain integral members of their families, requiring legal systems to address both individual and relational needs holistically. By shedding light on these complexities, this research advocates for comprehensive support systems that prioritize both individual rights and relational dynamics in the face of dementia within registered partnerships. Ultimately, it contributes to a broader understanding of how legal systems can better balance individual rights and relational dynamics in the context of dementia.

Short biography

Amber Jans is a Belgian PhD researcher specializing in person, family and elder law, focusing on the legal rights and protection of individuals with dementia. Affiliated with Hasselt University, she conducts research on the complex legal issues surrounding dementia, with particular emphasis on the legal position of persons with dementia and their partners.

Henna Nikumaa

Abstract

Collaborator or Outsider? – Perspectives of Family Members of Adults under Public Guardianship

Background Less attention has been paid to the lived experiences of relatives, friends, and other close persons of the adult under guardianship. This study addresses this gap by examining how family members perceive their role in relation to guardianship services and the appointed public guardian. Methods The study draws on qualitative interviews conducted with 21 family members and other close persons of adults under public guardianship in Finland. Participants included siblings, children, parents, spouses, other relatives, and friends. The material was analyzed using abductive content analysis. Results The analysis identified two main roles: 1) collaborator and 2) outsider. In the collaborator role, family members were treated as partners by guardians, enabling constructive cooperation and enhancing the client's wellbeing. In the outsider role, family members felt excluded from communication and decision-making, often due to strict confidentiality rules or administrative practices. Both roles emphasized the importance of the guardian's communicative skills and the ability to engage with the client as an individual. In addition, both roles shared the significance of practices related to the client's disposable funds. In the collaborator role, these practices were well known and clear to all parties. However, the lack of clear guidance and practices regarding the funds contributed to outsider's feelings of helplessness and mistrust. Conclusion The roles of collaborator and outsider, reflect not only the structural and procedural dimensions of guardianship, but also the emotional and relational dynamics that shape everyday experiences of the family members of clients. The roles illuminate how guardianship structures and practices affect the realities of clients and their close networks. The findings highlight the complexity of guardianship as both a protective legal measure and a lived social practice. The results suggest that the effectiveness of guardianship cannot be assessed solely in terms of legal alignment or administrative efficiency. The study underscores the need for public guardianship services to better integrate the perspectives of family members – this would benefit not only the family members themselves but also support the work of guardians and enhance the wellbeing of the client. Guardianship should be understood as a relational practice situated at the intersection of individual rights, family dynamics, and institutional structures.

Short biography

Henna Nikumaa (PhD in Law) works as a postdoctoral researcher in Law and Ageing at Center of Law and Welfare and Neuroscience Research Community at University of Eastern Finland. In her research she is interested in the rights of older people and people with disability as well as challenges of autonomy and protection of people with dementia. Nikumaa has worked over 20 years in various positions in the field of social and healthcare for older people. Especially she has led projects that scrutinized later life legal planning, guardianship services and equality of older people. She is a member of the European Law and Ageing Network (ELAN) and a co-founder and chairperson of the Finnish network of Elder Law Experts (VAASI).

Barbara Mikołajczyk

Abstract

Legal aid for older persons - an international law perspective

Older people constitute a significant proportion of the poorest and most vulnerable members of societies. For this reason, access to high-quality legal aid, representation and information is crucial for this group of people in asserting their rights before the courts and administrative authorities, as well as in dealing with everyday matters. However, national legal systems offer varying degrees of access (if any) to free legal aid and do not typically consider older age as a criterion for granting such aid. In view of the above, this paper aims to determine whether international human rights law imposes an obligation on states to provide free legal aid to older persons, especially those in difficult life situations and who are often victims of intersectional discrimination and exclusion. The second aspect addressed in the paper is the issue of enforcing rights by older persons at the international level, including before the European Court of Human Rights and the European Committee on Social Rights. The third issue addressed in this paper is the role NGOs play in providing legal support to older people at both national and international levels. The establishment of human rights standards regarding the right to legal aid, representation and information under international law is based on an analysis of binding and non-binding international law provisions, international case law, and the achievements of human rights monitoring mechanisms.

Short biography

Professor Barbara Mikołajczyk works at the Faculty of Law and Administration of the University of Silesia in Katowice, Poland. She specialises in international public law and human rights. She was involved in the COST action on ageism (IS1402). In May 2019, she joined the European Network on Law and Ageing Group (ELAN). She is also a member of the Polish Commissioner for Human Rights' Group of Experts on Older Persons. Moreover, she is a member of the Odysseus Academic Network for Studies on Immigration and Asylum in Europe. She was also appointed as an ad hoc judge to the European Court of Human Rights (2012-2014). She has authored books and articles dedicated to human rights of various categories of vulnerable persons, as migrant workers, asylum seekers, children, women (gender pay gap issues), ethnic minorities, sexual minorities and older persons.

Montserrat Haro & Sergi Martínez

Abstract

Ethical Conflict Resolution Space (ERESS) and human right promotion through the Eticalitza't Project

People with disabilities need support to make decisions, live independently in their community and, in general, to exercise their rights. The support organisations and, as part of these, the professionals have to protect and promote these rights. In line with this mission, ethical principles should guide and underpin all their interventions. After all, ethics is essential to prevent human rights violations and to promote users' autonomy and their well-being. In Support-Girona, for the last 5 years, a multidisciplinary group of professionals (psychologists, social workers, criminologists, lawyers and economists) with training in ethics and conflict resolution have built a space where the direct care teams find recommendations and counselling about: a) Human rights, ethical principles (autonomy, beneficence, non-maleficence and justice) and ethical risk assessment; b) Ethical deliberation and conflict management; c) Intervention strategies in line with the Convention on the Rights of Persons with Disabilities (UN) and Quality Rights (WHO). Professionals can present a brief description of a case, the difficulties they have to tackle it and any apparent ethical conflicts. Using the ethical deliberation and other intervention strategies from psychology, members of this Ethical Conflict Resolution Space or ERESS (its acronym in Catalan): 1) Assessing the case identifying the ethical principles in conflict and the objectives and need of involved parties; 2) Exploring and proposing alterative interventions to promote both autonomy and beneficence of people with disabilities; 3) Monitoring the development of the case over time, verifying if the conflict has been solved successfully. Another function of this space is training professionals from Support-Girona and other national and international organisations in matters related to: a) Human rights; b) Ethical conflict resolution; c) How to support people with disabilities according to ethical principles. Finally, the Ethical Conflict Resolution Space is developing Eticalitza't project. This initiative is a podcast aimed at general public on how to address from an ethic perspective: a) The psychological, physical and sexual violence that women with disabilities suffer; b) The drug abuse and addictions in people with disabilities; c) And other possible topics like community conflicts between people with disabilities and their neighbours or the right to be mothers of women with disabilities.

Short biography Montserrat Haro

Diploma in Social Work, University of Barcelona. Worked in elderly residential centers, aiding adaptation and quality of life while supporting families. At Support-Girona for 20 years: 15 in direct care for psychosocial disabilities (legal capacity support); since 2021, coordinates Advisory & Future Support Planning Services. Co-founded Ethical Reflection Space (2020).

Short biography Sergi Martínez

Sergi is a criminologist and psychologist, holding a degree in Criminology from the University of Girona and a degree in Psychology from UNED, where he specialized in Health Psychology. He further complements these disciplines with postgraduate studies in civil, family, and

community mediation, along with a specialization in financial strategy and management. Additionally, he has accredited training in emergency psychology and behavioural issues. On the other hand, he works in Support-Girona as project developer

Zoë Lüddecke

Abstract

The Challenges of Supported Decision-Making based on the Experiences of a Caregiving Relative

Shared decision-making serves as a concept in the context of care to actively involve persons in their own treatment situation and to shape decision-making together in order to promote self-determination (Elwyn et al. 2010; Elwyn et al. 2012). The application of shared decision-making is already well established in clinical practice due to the benefits it offers. (Elwyn 2010; Stacey 2024). The same applies to the area of legal care in the form of supported decision-making (Brosey 2015) which led to a change in the German law about legal care (Betreuungsrecht) in 2023 that enshrined the principle of support (Bulla et al. 2025). The law precisely defines the tasks and duties of legal carers, especially court-appointed professional carers (Berufsbetreuende). Even though the law applies equally to family carers, a family relationship with the person being cared for brings with it special needs and challenges. There are care associations (Betreuungsvereine) in Germany that support voluntary (family) caregivers (Stumpf 2022), nevertheless I do not consider the tasks, duties and, above all, limits of shared and supported decision-making to accurately reflect the actual reality of legal care in a family context. I would like to describe my reality and the challenges I face as a caregiving relative in implementing shared and supported decision-making on a daily basis. Through my autoethnographical contribution, I aim to share my lived experience as a caregiving daughter since my back than 49 years old mother had a severe stroke seven years ago subsequently needing nursing and legal care. My main interest as a carer is to fulfil my mother's will and help her maintain her independence. However, I often find myself in situations where this task conflicts with my own life plans or simply exceeds my capabilities. In my contribution, I will present my strategies to support my mother in her self-determination, but I would like to address the difficulties – out of my perspective as a young caregiver and, secondarily, as a medical ethics researcher – that constantly accompany the care situation as well. The guiding question I would like to address in my contribution is: Is there a need for a distinct definition of supported decision-making when it comes to family caregiving relationships, which also includes the responsibilities as well as rights and interests of the caregiver?

Short biography

Zoë Lüddecke M.A. studied intercultural Philosophy, Literature and Theater at the University of Hildesheim, Germany. During her Master's degree, she already worked on issues related to Clinical Ethics and Public Health Ethics. Since 2021, she has been a researcher at the Institute for the History of Medicine and Medical Ethics at the University of Cologne/University Hospital Cologne, Germany. In addition to her main job in Cologne, she also worked at the universities of Hanover and Bonn. She supports ethics teaching for various healthcare professions. One of her main areas of work is therefore the promotion and further development of medical ethics didactics. Her current research aim is to rethink the conventional understanding of scientific objectivity in medicine and extending it to include subjective experiences as legitimate sources of knowledge. She is also certified for Clinical Ethics Counselling in order to implement Medical Ethics into daily clinical practice.

Session J - Abuse

Meredith Smith

Abstract

The Creation of Multidisciplinary Teams to Improve Outcomes for Adults in Need of Support

Multidisciplinary teams (MDT) bring together professionals within a geographic region who commit to working collaboratively toward a shared goal. An adult protection MDT focuses on preventing and responding to abuse of adults in need of support—including physical, emotional, or sexual abuse, caretaker neglect, and financial exploitation. Adult protection MDTs have gained traction because adult abuse is a complex problem that is difficult to detect, prevent, and remedy. There is no one field, system, or set of laws that controls the problem; a single profession or service system is rarely sufficient to address it. The issue tracks across disciplines and implicates areas such as physical health, mental health, financial matters, residential care, law, domestic violence, and social work. Yet the systems that are designed to provide support to adults are often fragmented. Resources are used inefficiently, and response efforts are duplicated. There is a lack of coordination and communication among professionals engaged in the same work. Adults in need of support are not engaged in seeking tailored solutions that empower them to remain free from abuse. Instead, unnecessary, overly broad interventions—such as plenary guardianship—may be pursued. Faculty at the University of North Carolina at Chapel Hill School of Government, through the Adult Protection Network, partnered with local and state governments to support the creation and growth of adult protection MDTs. In the last two years, North Carolina has seen an increase from 34 to 76 counties with an established MDT. Despite differences in size, composition, and geography, these teams share many common features. Their impact includes improved coordination of services, more efficient use of limited public resources, enhanced professional understanding, and more individualized, tailored outcomes for adults in need of support. This session will provide background on adult protection MDTs—how they form, who participates, and how they function. It will provide insight from the research and fieldwork of UNC faculty on MDTs. Finally, it will engage participants in identifying practical strategies for applying these lessons within their own jurisdictions to strengthen protections, maximize autonomy, and improve responses for adults in need of support.

Short biography

Meredith Smith is an associate professor with the University of North Carolina at Chapel Hill School of Government. Smith joined the School in 2013. Smith earned a B.A. in political science and Spanish, with distinction, from the University of North Carolina at Chapel Hill and a law degree, cum laude, from Georgetown University School of Law. Smith areas of scholarship focus on legal issues arising in the field of aging and adult services, with a particular focus on adult guardianship and adult abuse, neglect, and exploitation. Smith is the co-creator of the North Carolina Adult Protection Network. She is one of the primary professors in North Carolina who provides training and resources to North Carolina public officials, including judicial officials who preside over guardianship proceedings and adult social services attorneys, directors, and staff.

Amy Bryant

A Tailored Approach to Monitoring Guardianships Effectively

Abstract

The lack of structured oversight offices for guardians is a world-wide issue that often leads to the neglect, exploitation and abuse of vulnerable elderly individuals and individuals with disabilities. Individuals have certain fundamental rights to make decisions regarding their own body and property. Because of the highly sensitive and invasive nature of a guardianship, the court maintains a reasonable level of responsibility for oversight.

This session will detail a blueprint for an oversight office that allows the judges to put the least restrictive authorities in place and maintain the most autonomy for the person with a disability. We will explore the need for a guardianship registry or database that could provide a solution for the lack of guardianship oversight by creating a relatively inexpensive and easy way to track guardianships.

This session will also detail how courts can develop programs to provide oversight of guardians. The participants will be shown the details of how guardianship management is done in Tennessee and other United States courts to provide for oversight and monitoring of the person and the estate.

Training is one of the paramount ways to protect the individual under guardianship. This session will review how education can assist with the care and management provided by guardians to help provide for the health, safety, and welfare of individuals under a guardianship especially when an oversight office is not available.

Yann-Tsyr Tuan

Abstract

How Civil Court Decisions Reflect Legal Capacity and Professional Intervention in Financial Disputes

Legal capacity is one of the core elements examined by civil courts when adjudicating disputes involving older adults with dementia. Although Taiwan provides guardianship and assistance mechanisms, they were often not applied to individuals involved in these cases, requiring courts to assess legal capacity retrospectively rather than through any prior legal safeguard. This empirical socio-legal study analyzed 244 civil court decisions involving 249 individuals with dementia over an 11-year period in Taiwan. The findings demonstrate: (1) family misappropriation was the most prevalent exploitation type (61.5%); (2) although 84% were medically diagnosed with dementia, 63.1% had never applied for guardianship or assistance, meaning that legal capacity was rarely reviewed before financial transactions took place; (3) 68% of property dispositions were held valid by the courts, indicating that capacity was frequently recognized despite cognitive impairment; (4) real estate constituted the majority of disputed assets; and (5) professionals played a pivotal role, with land administration agents, notaries, financial institutions, and lawyers frequently involved. Notably, only the involvement of lawyers showed a significant correlation with the validity of transactions, while other professionals did not. These findings suggest that judicial assessment primarily functions as a corrective mechanism after disputes emerge, underscoring the need for earlier safeguards and clearer professional duties during financial transactions. Strengthening ex ante capacity assessment and professional intervention—particularly for notaries and land administration agents—may help prevent financial exploitation and better align judicial determinations with real-world decision-making capacity.

Short biography

Yann-Tsyr Tuan is a master's student in the Department of Law at National Taiwan University (NTU), Taiwan. Her research focuses on family law and the legal protection of vulnerable populations. In 2022, she conducted a Ministry of Science and Technology–funded undergraduate research project using quantitative methods to examine financial decision-making and potential exploitation among older adults with dementia. She later developed this research into her bachelor's thesis, which received the Fu Ssu-nien Award, NTU's recognition for outstanding undergraduate scholarship. She is currently collaborating with her academic advisor, Professor Sieh-Chuen Huang, on the empirical study submitted to WCAC 2026, aiming to contribute to the development of legal safeguards and decision-making support for individuals with diminished capacity.

Yeonji Lee

Abstract

Elder Financial Abuse in Korea: Analyzing 65 Protection Agency Cases and 40 Criminal Cases

This study provides a comprehensive understanding of financial abuse against older adults in South Korea by analyzing its manifestations and responses, proposing practical prevention and intervention strategies. The significance lies in its empirical analysis of financial abuse cases in Korea, where undue influence is not systematically evaluated. By examining which types of financial abuse have surfaced under current circumstances, this study demonstrates the necessity of incorporating undue influence assessment into the Korean elder protection system. The research analyzed 65 financial abuse cases from the Korean Elder Abuse Protective Service Agencies (KEAPSA) between 2011 and 2023, alongside 40 judicial rulings selected based on predefined criteria. Thematic Analysis was employed to identify underlying patterns and core meanings. The findings are organized into patterns of abuse and institutional responses. KEAPSA cases revealed three distinct types: Parasitic Exploitation, Asset Plundering Exploitation, and Opportunistic Exploitation. Judicial rulings identified three prevalent types: Dementia Instrumentalization, Cognitive Vulnerability Exploitation, and Normal Cognition Exploitation. Responses varied by institution. KEAPSA adopted a social welfare approach, focusing on victim protection, financial assistance, legal intervention, and perpetrator rehabilitation. The judicial system emphasized perpetrator accountability through punitive measures. However, KEAPSA often failed to recover assets, while courts encountered challenges proving mental incapacity and addressing the legal appearance of consent. These findings underscore the need for a comprehensive legal framework integrating undue influence assessment, enhanced coordination between welfare and judicial systems, and effective mechanisms for asset recovery and victim protection.

Short biography

As the former executive director of WCAC Korea, I am delighted to participate in the World Congress on Adult Capacity once again. Professional Background: - Clinical Professor of Law, Inha Law School - Attorney at Law (Republic of Korea) - Ph.D. in Social Welfare - Former Executive Director, WCAC Korea - Former Attorney in Charge, Dementia Public Guardianship Project

Yue-En Chong

Abstract

Preventing Wolves In the System - How Singapore Keeps Her Professional Deputies Honest

The Nevada Case of April Parks in 2019, who was found to be financially abusing her wards, and the Netflix drama, 'I Care A Lot' released in 2021, probably caused many policymakers around the world to experience sleepless nights, wondering if wolves, like Parks, exist within their respective systems. This presentation analyzes the strengths of Singapore's Professional Deputyship system, from the training and accreditation of Professional Deputies, to the requirements of the application submitted to the Court and the role of the relevant persons, i.e. family members in ensuring that the system is robust to weed out bad actors in preventive measures. The role of Singapore's Office of the Public Guardian in accrediting and supervising professional deputies will also be discussed. Finally, weaknesses of the current Professional Deputyship systems and recommendations to further fine-tune the Professional Deputyship system will be explored.

Short biography

Yue-En Chong is the Managing Director and Founder of Bethel Chambers LLC where he has a thriving Private Clients, Family, Estate and Mental Capacity legal practice. He is an accredited Professional Donee and Professional Deputy and have represented HNW individuals as their deputy. He has published several articles on mental capacity law and have recently co-authored Singapore first hardcopy monograph, "The Mental Capacity Act in Singapore: Law and Practice". As the global chair of STEP Mental Capacity SIG and the chair of STEP's GRP Working Committee, he advocates for new legislation to allow pre-planning and the appointment of a legal representative before Mental Capacity Loss. On a global level, he is leading his SIG to further look at best practices around the world in tackling elder and financial abuse. Finally he has his LLB from the National University of Singapore and a LLM (Social Care Law) from Cardiff University where he specialised in the Mental Capacity Act.

Session K - Care

Steph Kerr

Abstract

Restraint in Health and Social Care Settings

The use of restraint in health and social care settings, particularly for individuals who lack capacity, remains a complex and contentious legal and ethical issue. Restraint encompasses a range of interventions, including but not limited to physical, chemical, mechanical, and psychological methods, each requiring stringent safeguards to prevent misuse and ensure compliance with human rights standards. The phased implementation of the Mental Capacity Act (Northern Ireland) 2016, particularly Section 12 which focuses specifically on restraint, marks a significant shift towards a more rights-based approach, aligning legal and policy frameworks with ethical principles of autonomy and dignity. This article critically analyses the evolving regulatory landscape governing restraint, drawing on key legislation, the Department of Health's (2023) Regional Policy on the use of Restrictive Practices in Health and Social Care Settings and relevant case law. It further explores ethical dilemmas and operational challenges, including staff training, documentation, and oversight mechanisms necessary for lawful and proportionate restraint use. Finally, the article examines preventative strategies through person-centred care approaches, advocating for a cultural shift towards minimising restrictive interventions and promoting human rights-driven practice.

Short description

Steph Kerr is an experienced Approved Social Worker with a background in working with individuals who lack capacity, older people, and those with learning disabilities or mental health needs. She is currently Head of Service for Mental Capacity and Approved Social Work in Belfast Health and Social Care Trust, where she leads on the delivery and governance of statutory functions under the Mental Capacity Act (NI) 2016 and the Mental Health (NI) Order 1986. Steph brings extensive operational and strategic leadership experience in managing complex legal and clinical interfaces. She is also undertaking a part-time PhD at Queen's University Belfast, where her research focuses on mental capacity, best interests decision-making, and deprivation of liberty. Her work aims to support ethical, rights-based practice and inform future service design and policy implementation.

Tim Opgenhaffen

Abstract

Seclusion and restraint in long-term care: lessons learned from developing a guideline

The use of seclusion and restraint in long-term care settings in Flanders (Belgium) remains a recurrent practice. At the request of the Flemish Government, an interdisciplinary research team developed a multidisciplinary guideline addressing the prevention and application of seclusion and restraint. The guideline is grounded in both scientific evidence and human rights standards, and provides recommendations for a wide range of residential care settings and situations in which seclusion and restraint may be considered, including both emergency situations involving serious and acute risk and non-emergency situations, such as responses to challenging behaviour.

This contribution reflects on the lessons learned during the development of the guideline, with particular attention to the methodological approach adopted and to the legal dimensions of applying seclusion and restraint in situations where no serious and acute danger is present. First, from a methodological perspective, the guideline development process combined scientific evidence traditionally used in guideline development with human rights–based recommendations derived from the case law of the European Court of Human Rights and the country reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment. To this end, the classical GRADE methodology, with its scientific levels of evidence, was supplemented by parallel human rights–based levels of evidence. This hybrid approach gave rise to a number of methodological challenges, particularly in situations where scientific evidence and human rights–based evidence pointed in different directions, which are discussed in this contribution.

Second, with regard to the legal dimensions of applying seclusion and restraint, the development of the guideline revealed particular challenges in situations where no serious and acute danger is present, yet seclusion or restraint may still be considered. In such cases, human rights guidance is more limited and less explicit, raising fundamental questions about the extent to which seclusion and restraint may be applied without consent, how to address situations involving persons who lack decision-making capacity, and how to put in place sufficient safeguards to ensure that consent is not imposed or unduly influenced by the care provider. These legal challenges are analysed in this contribution.

Short biography

Tim Opgenhaffen is assistant professor at the Faculty of Law and Criminology at KU Leuven. He is a member of the Institute for Social Law (ISR), where he conducts research in Social Welfare Law and Social Assistance. His areas of specialisation include the rights of persons with disabilities, professional secrecy, mental healthcare, and residential care. He is also an assistant professor at Vrije Universiteit Brussel, where he specializes in Health Law and Law of Persons within the Department of Private and Economic Law and the BRIDGE research group.

Juliane Nowka & Volker Lipp

Abstract

Planning Ahead for Mental Health Conditions – Legal Pathways to Self-Determination in Germany

A person with mental health conditions may temporarily lack the legal capacity to make independent decisions about their medical treatment. It is therefore advisable to make advance arrangements while having the necessary capacity. In Germany, the legal instruments for such advance planning for future psychiatric treatment are an advance healthcare directive and a lasting power of attorney. In an advance healthcare directive, a person can specify which medical measures are accepted and which are refused in anticipated crisis situations. A lasting power of attorney authorises a person of trust to make decisions on behalf of the principal, thereby ensuring that the principal's wishes are respected and, if necessary, implemented. The model project "Promoting advance healthcare directives – strengthening rights" has been developed to raise awareness of advance care planning in the context of psychiatric treatment. The aim of the project is to empower those affected by providing them with the necessary information and assistance in drawing their own advance healthcare directives as well as their own lasting power of attorney and to understand their rights. This aims to enable them to make self-determined and informed decisions about their medical treatment. Drawing upon the experiences of the project's users and advisers, our accompanying legal research aims at identifying the key legal issues when using advance healthcare directives and lasting powers of attorney in the context of psychiatric care. These issues are analysed and discussed in light of applicable legislation and relevant case law. Based on this analysis, as well as on the insights of users and advisers, law-related problems will be identified and potential solutions developed. The legal research has started in late 2025 and is scheduled for completion by 2027. Our presentation will show the first results of the legal research and provide an insight into the practical challenges of strengthening self-determination in psychiatric care.

Short biography Juliane Nowka

Juliane Nowka (*1998) studied law at the University of Göttingen and passed the First State Examination in Law in 2023. She works as a research assistant at the Institute for Notarial Law at the University of Göttingen. Her academic work focusses on notarial law, medical law and adult protection law.

Short biography Volker Lipp

Volker Lipp (*1962) holds a Chair for Civil Law, Civil Procedure Law, Medical Law and Comparative Law, and is the co-director of the Institute for Notarial Law at the University of Göttingen. Professor Lipp is the author of various articles, monographies and commentaries on, inter alia, German as well as international civil procedure, family proceedings and protection of adults.

Carol Cintado, Míriam Gràcia & Anna Berenguer

Abstract

Support-Girona Life Managers: Enabling Legal Capacity in Complex Mental Health Contexts

Support-Girona's life manager model provides flexible, ongoing social/community supports enabling real legal capacity exercise, tailored to individual preferences. It creates conditions for people to understand, decide and participate in life matters—even complex ones—beyond mere paperwork or substitution. Interventions start with formal documents (judgments/notarial deeds) defining functions, supervision, protection and limits, respecting rights/will. Life managers adopt holistic approaches (legal/social/relational/community), working with the person.

Four pillars structure the model:
• Continuity: Links services/crises; documents; avoids hasty decisions.
• Context: Daily-environment decisions for realistic supports.
• Network: Mobilises services (social/mental health/police/neighbours/shops).
• Relationship: Stable bonds anticipate/prevent coercion.
Outcomes: residential stability, fewer involuntary admissions, social participation, autonomy gains.

Shifts emergency focus to long-term processes with clear info/realistic pacts/proportional protection. Family participates per person's wish, easing relational strain. Admission prevention uses early detection/community alternatives/mental health coordination (mobile teams/ETACs). Housing stability via low-threshold spaces/committees/supported home returns. Community deployment (roundtables/local actors/police) integrates mentoring/leisure for identity/belonging/citizenship. Evolving via pilots/indicators/supervision, it demands perseverance but delivers: regained decisions/networks/life continuity.

Short biography Carol Cintado

Carol is a graduate in social work and business studies, working as a social worker since 2004, always linked to Support-Girona as a social reference. Currently coordinates three teams in the Garrotxa, Ripollès, and Cerdanya regions (Girona province, Catalonia), supporting professionals and ensuring person-centered quality social intervention.

Short biography Míriam Gràcia

Míriam is a Social worker graduated from Universitat de Vic. Completed internships at La Plata Municipality (Argentina) and a residential center in Leganés (Madrid) for people with severe disabilities. In 2017, completed a postgraduate degree in Leadership and People Development at Universitat de Girona. Ongoing training in mental health, disability, and human rights. Combines rigorous training, ethical commitment, and experience in social intervention with vulnerable groups.

Short biography Anna Berenguer

Anna is a graduate in Social Work. Senior Social Agent at Support-Girona since May 2019, providing support to people with disabilities in Alt Empordà (Girona).

Sarah Prentice

Abstract

Deprivation of liberty in Scotland: An Assessment of Human Rights and UNCRPD Compliance

The current landscape of deprivation of liberty in Scotland is examined through the dual lens of legal expertise and lived experience. Drawing upon roles as both an independent Safeguarder and a solicitor, as well as personal experience as a carer, this analysis highlights persistent shortcomings in Scotland's recognition and protection of the rights of adults with incapacity. Recent years, and the COVID-19 pandemic in particular, have exposed deep-seated flaws in Scotland's legal and practical approach to deprivation of liberty. The pandemic served as a catalyst, bringing long-standing weaknesses to the fore. Key failures include decisions made without proper consent or legal authority, as well as an ongoing lack of rigorous legal safeguards, review processes, and accountability mechanisms for vulnerable individuals. The paper examines the actions taken in the hospital discharge scandal and presents case examples that illustrate how inadequate legislative reform to address the question of deprivation of liberty in Scotland has resulted in a societal landscape where the legal capacity of individuals is frequently overlooked. Adults who are unable to consent to constant supervision or control often find themselves subject to measures that are unlawful. The analysis considers the societal impact of the failure to legislate and demonstrates a fundamental lack of understanding of human rights even from professionals tasked with protecting and caring for vulnerable adults. While Scotland has domestic legislation and national and international human rights obligations, the failure to recognise and legislate for deprivations of liberty has lead to the rights of adults with incapacity being sidelined. Scotland's approach to Deprivation of Liberty will be assessed in terms of its human rights and UNCRPD compliance.

Short biography

Sarah Prentice is a Senior Solicitor at the Scottish Social Services Council, the body that regulates those working in the social services profession in Scotland. She is also an Independent Safeguarder for Adults with Incapacity for the Sheriffdom of Lothian and Borders in Scotland. Sarah is an advisory committee member for the ELI's project on advance choices for future disablement. She has significant experience in mental health and adults with incapacity law. She also sits on the Council of the Society of Solicitors in the Supreme Courts in Scotland.

Poster presentations

Ting Jiang

Abstract

Financial performance of people with acquired cognitive impairments or affective disturbances

Background: Financial capability, encompassing both financial competence and financial performance, is essential for independent living. However, individuals with neurological and psychiatric disorders often demonstrate difficulties with financial capability. This study examined the influence of common neurological and psychiatric conditions, i.e., Alzheimer's disease (AD), Parkinson's disease (PD), stroke, and affective disturbances (e.g., depression and anxiety), on financial performance. Methods: Prospective data from wave 8 (n = 53,695) and wave 9 (n = 69,477) of the Survey of Health, Retirement and Ageing in Europe were used, including individuals aged 50 years and older. Logistic regressions and group comparisons were conducted to analyze the influence of the self-reported abovementioned disease diagnoses on three aspects of (future) financial performance: difficulties in managing money, difficulties in making ends meet, and debt situation. Results: Odds ratios (ORs) were used to indicate the ratio of the probability that the event occurs in diagnostic groups compared to the probability in the control group. Compared to controls, participants with PD and stroke were each about five times more likely to experience difficulties in managing money, those with AD were more than seventeen times more likely, and those with affective disorders were more than three times more likely (PD: OR = 5.36; stroke: OR = 4.99; AD: OR = 17.34; affective disorders: OR = 3.44). Participants with PD or AD in wave 8 were more than seven times more likely to report difficulties in managing money in wave 9 relative to controls, and those with stroke or affective disorders were more than twice as likely (PD: OR = 7.56; AD: OR = 7.13; stroke: OR = 2.61; affective disorders: OR = 2.39). The different diagnoses also predicted both current and future difficulties in making ends meet ($1 < OR < 2$ for all). However, only affective disorders were associated with a higher likelihood of having household debts (OR = 1.77), and also predicted a higher likelihood of having future household debts (OR = 1.39). Discussion and Implications: Compared to controls, individuals with PD, AD, stroke, or affective disorders are more prone to experiencing impairments in both current and future financial performance, potentially facing financial difficulties. These results emphasize the importance of recognizing financial difficulties in such individuals and offering financial assistance when needed.

Short biography

I'm a PhD student at the University of Groningen in the Faculty of Behavioural and Social Sciences. I study financial capability in people with cognitive impairments or affective disorders.

Sungwoo Kim

Abstract

Guardians' Crimes in Korea's Adult Guardianship System: Risks, Challenges, and Policy Responses

The Korean adult guardianship system, introduced with the 2011 Civil Code reform, was designed to safeguard the personal and property interests of adults with diminished decision-making capacity. However, recent cases have demonstrated that guardians themselves—particularly family guardians, but also professional and institutional guardians—may engage in misconduct or even criminal acts against their wards. This study examines the patterns, legal issues, and policy responses to crimes committed by guardians in Korea, with a focus on both preventive and remedial measures. 1. the presentation outlines the framework of guardianship in Korea and guardians' misconduct into three primary types. (1) property crimes, including embezzlement, breach of trust, and misuse of the ward's assets; (2) personal crimes, such as neglect, abuse, and infringement on personal rights; and (3) procedural abuses, including misuse of legal representation, fraudulent litigation, and failure to comply with reporting obligations 2. the study explores the contentious issue of the application of the kinship privilege in criminal law (Article 328 of the Korean Criminal Code). 3. the study addresses that preventive mechanisms already embedded in the Civil Code are often under-enforced or insufficient. 4. remedial strategies are discussed, including prompt removal and replacement of offending guardians, improved access to justice through legal aid and fee exemption. By analyzing Korean case law, statutory reforms, and policy initiatives, this study highlights both the vulnerabilities inherent in guardianship relationships and the evolving responses of the legal system. The findings underscore the importance of combining preventive safeguards with effective judicial remedies to ensure that guardianship fulfills its protective purpose rather than becoming a source of harm.

Short biography

Yulchon LLC (2019-present)
Senior partner / Visiting Professor, Seoul National University School of Law (2020-present)
Presiding Judge, Seoul Family Court (2017-2019)
Network Judge, Hague Convention on the Civil Aspects of International Child Abduction (2015-2019)
Judge, Seoul Family Court and other courts (2004-2017)

Suhjin Jang

Abstract

Judicial Supervision of Personal Affairs in Adult Guardianship at the Seoul Family Court

This presentation examines the current operation of guardianship supervision at the Seoul Family Court, focusing on the protection of personal affairs alongside property management. Under Korean law, a guardian's authority extends to both spheres; however, the Civil Act provides no explicit definition of personal affairs. Academic interpretation treats the concept as encompassing matters related to the ward's physical and mental welfare, in which privacy and self-determination are fundamental. These include liberty of movement and residence, freedom of correspondence and communication, access to medical and social-welfare services, and rights concerning visitation and contact. The Civil Act maintains that adults under guardianship retain decision-making authority regarding personal matters to the extent permitted by their condition, and their decisions must be respected absent special circumstances. Where the ward cannot decide, the court may grant the guardian authority to act on the ward's behalf, including entering into legal acts relating to medical treatment or long-term care arrangements, as well as verifying that services are properly delivered. Certain intrusions require prior judicial authorization, including isolation for treatment under Article 947-2(2) and substituted consent to medical treatment under Article 947-2(3), both determined on a case-specific basis. Applications concerning visitation arise particularly in cases of family conflict, with authorization denied where contact would interfere with treatment or lacks legitimate purpose. This supervisory framework illustrates the structured legal safeguards applied to personal-affairs protection within Korean adult guardianship.

Short biography

3/2020 - Present : Judge, Seoul Family Court
3/2016 - 2/2020 : Judge, Suwon District Court Anyang Branch
3/2012 - 2/2016 : Judge, Daejeon District Court 11/2009 : Passed the National Judicial Examination
2010 - 2011 : The Judicial Research and Training Institute, Korea
2004 - 2009 : The College of Law, Seoul National University (Bachelor of Law)