

MODERNIZING THE GUARDIANSHIP SYSTEM IN UZBEKISTAN IN THE CONTEXT OF MODERN TECHNOLOGIES AND INTERNATIONAL TRENDS

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ABSTRACT

This article analyzes the need to reform Uzbekistan's Law "On Guardianship and Trusteeship" in accordance with modern technologies and international standards. The study emphasizes the importance of ensuring children's right to grow up in a family environment, introducing digital public services, applying artificial intelligence in guardianship procedures, and enhancing international legal cooperation. Drawing on foreign experiences, the article presents practical proposals for modernizing national legislation and strengthening the legal guarantees for children deprived of parental care.

Keywords: Guardianship, children's rights, digitalization, artificial intelligence, international practice, foster family, family care, legal reform

АННОТАЦИЯ

Мазкур мақолада Ўзбекистон Республикасининг "Васийлик ва ҳомийлик тўғрисида"ги Қонуни замонавий технологиялар ва халқаро меъёрлар асосида ислоҳ қилиниши зарурлиги илмий асосда таҳлил қилинган. Мақолада болаларнинг оила муҳитида тарбияланиш ҳуқуқини таъминлаш, рақамлаштирилган давлат хизматларини жорий этиш, сунъий интеллект технологияларини татбиқ этиш, шунингдек, васийликка оид халқаро ҳамкорликни ҳуқуқий жиҳатдан тартибга солишга оид таклифлар илгари сурилган. Хорижий тажриба таҳлили асосида миллий қонунчиликни такомиллаштириш учун амалий тавсиялар берилган.

Калит сўзлар: васийлик, болалар ҳуқуқлари, рақамлаштириш, сунъий интеллект, халқаро тажриба, патронат оила, оилавий тарбия, қонунчилик ислоҳоти

Аннотация:

В статье рассматривается необходимость модернизации Закона Республики Узбекистан «Об опеке и попечительстве» с учетом современных технологий и международных стандартов. Автор подчеркивает важность обеспечения права ребенка на семейное воспитание, внедрения цифровых государственных услуг, использования искусственного интеллекта в процедурах опеки и развития международного правового сотрудничества. На основе анализа зарубежного опыта предложены практические рекомендации по совершенствованию национального законодательства.

Ключевые слова: опека, права детей, цифровизация, искусственный интеллект, международный опыт, патронатная семья, семейное воспитание, правовая реформа

INTRODUCTION

The Law of the Republic of Uzbekistan “On Guardianship and Trusteeship” was adopted in 2014 and has since served to regulate the protection of the rights of orphans and individuals left without care¹. This Law defines the institution of guardianship for children under the age of fourteen and adults declared legally incapacitated by a court and trusteeship, which applies to minors aged 14 to 18 and adults with limited legal capacity. The primary objective of both institutions is to ensure the upbringing of individuals in need within a family environment, while also safeguarding their personal and property rights. Furthermore, the Law recognizes the right of every child to be raised in a family as a fundamental principle. In other words, the state’s policy explicitly affirms that, whenever possible, every child should grow up in a familial setting.

In the current context, there is a pressing need to further improve this Law in line with modern demands. Specifically, it is essential to enhance the effectiveness of guardianship and trusteeship activities through the digitalization of public services, the transition to electronic systems for the placement of children in family care, and the integration of artificial intelligence technologies. The following sections examine the modernization of this legislation based on existing challenges, academic perspectives, and foreign experiences in the field.

In practice, several bureaucratic obstacles persist in the field of guardianship and trusteeship, indicating that the current Law no longer fully meets modern demands.

First, under the existing procedures, individuals applying for guardianship (or adoption) are required to collect and submit dozens of paper documents to various authorities. This complexity underscores the urgent need for digital transformation. Introducing a “one-stop” electronic system for document submission and enabling inter-agency data sharing through an integrated digital platform would significantly reduce the burden placed on applicants.

Second, reporting and data exchange within guardianship bodies are still largely conducted manually and in paper form. Although efforts have been made to address these issues, challenges remain. Notably, a Presidential Decree issued in 2022 called for the full digitalization of guardianship and trusteeship activities. The decree mandated the creation of a unified electronic register for orphaned children and those deprived of parental care, the maintenance of digital case files for individuals under guardianship, and the establishment of an electronic database for children placed in institutional care². Furthermore, it introduced requirements for the formation of an electronic registry of individuals wishing to serve as foster parents and the digital registration of contracts concluded with them. It also eliminated the need for submitting redundant paper documents when applying for guardianship. These measures aim to abolish outdated practices such as manually sending data across institutions and repeatedly requesting the same information. Reflecting these reforms in the legislation would provide a robust legal basis for their complete implementation.

Third, the potential application of artificial intelligence (AI) technologies should also be taken into account. In some developed countries, AI elements are being incorporated into child protection and guardianship processes. For example, certain social service systems use predictive models to assess the risk of children suffering from neglect or abuse. These

¹ National Database of Legislation, 21.04.2021, No. 03/21/683/0375., 12.04.2023, No. 03/23/829/0208

² <https://lex.uz/uz/docs/5971599?ONDATE=27.12.2025&action=compare>

algorithms can calculate a “risk score” for a specific child or family and help determine which cases should receive urgent attention from social services [3]. However, caution is necessary when deploying AI tools, as biased training data or the influence of human factors may lead to inaccurate or inappropriate recommendations. Масалан, 2022 йилда АҚШнинг Пенсильвания штатида болалар ҳақида чақириқларни саралашда қўлланган модель назоратсиз ҳолда қора танли болаларни текширувга тавсия қилиш ҳолатларини 20%га кўпроқ баҳолаган (кейинчалик ижтимоий ходим аралашувидан сўнг бу фарқ 9%га туширилган)³. However, caution is necessary when deploying AI tools, as biased training data or the influence of human factors may lead to inaccurate or inappropriate recommendations. Nevertheless, the establishment of a unified electronic database on individuals in need of guardianship in Uzbekistan analyzed with the support of artificial intelligence would allow for the early detection of potential problems and the timely alerting of relevant authorities. For instance, such a database could enable continuous monitoring of the status, health, and education of children under guardianship. AI systems, in turn, could analyze large-scale data (Big Data) to identify regions where risk factors for children are high and provide rapid notifications to authorized bodies. If these technologies are supported by a solid legal framework, we believe modern tools could be effectively utilized in the guardianship system. The evidence presented here clearly demonstrates the need to revise the Law “On Guardianship and Trusteeship” with the integration of information technologies. Specifically, it is advisable to introduce legal provisions establishing an electronic guardianship database, procedures for appointing guardians and submitting reports through the “E-Government” platform, and mechanisms for automating inter-agency data exchange. Such reforms would improve access to public services, strengthen the protection of the rights of children and other individuals under guardianship, and promote transparency in guardianship procedures. Digital solutions would help eliminate excessive paperwork and bureaucratic delays. Therefore, incorporating these types of legal changes is crucial for transitioning the guardianship system to a modern stage of development. Both national and international scholars have proposed various academic perspectives on improving the institution of guardianship. In particular, some researchers emphasize the necessity of digitally transforming institutional processes within this field. For example, the national researcher Kh. Chorieva argues that digitalizing the workflow of guardianship authorities is essential to reducing bureaucratic delays⁴. In her view, automating procedures and implementing electronic information systems would enable rapid data exchange concerning individuals in need of guardianship, thereby accelerating decision-making processes. This illustrates that a growing number of academics support the integration of digital technologies into legislative frameworks. Another school of thought highlights the importance of expanding alternative forms of family placement for children when reforming guardianship legislation. These scholars, supported by empirical research, assert that the family environment is the most suitable setting for a child’s development. They advocate for institutional placement to be considered only as a last resort,

³ <https://thedailyrecord.com/maryland-family-law/2025/06/25/protecting-the-vulnerable-or-automating-harm-ais-double-edged-role-in-spotting-abuse/>

⁴ Chorieva H. (2024). Prospects for improving the rights and obligations of guardianship and patronage bodies in the Republic of Uzbekistan. *Actual Problems of Social and Humanities Actual Problems of Humanities and Social Sciences.*, 4 (12), p.p. 460–468

emphasizing the need to preserve family-based care whenever possible. Such views are scientifically substantiated. For instance, Russian legal scholar A.I. Sattarova also considers family-based care for children deprived of parental care a priority, and she outlines several persistent challenges in current practice⁵. Specifically, she highlights the advantages of guardianship including its prompt, non-judicial implementation and the availability of financial support from the state while simultaneously arguing for the improvement of guardianship procedures compared to adoption mechanisms. According to her, the requirements imposed on guardianship candidates (e.g., personal characteristics and obligations) are often less stringent than those for adoption, making guardianship the most commonly used form of placement. However, the legal and organizational shortcomings of these procedures necessitate urgent reforms.

In summary, both domestic and foreign scholars offer critical recommendations to further strengthen the legislative framework for protecting children's rights. Some emphasize the need for digitalization and electronic procedures, while others call for enhanced legal guarantees to support family-based care for children.

An analysis of the above perspectives reveals that scholars and experts have identified several key priorities for modernizing the law. One group of specialists emphasizes enhancing management efficiency through information technologies and artificial intelligence, while another group focuses on strengthening the social aspects of guardianship specifically, ensuring family-based care for children and protecting their best interests.

In reality, these two approaches are complementary and must be harmoniously integrated into future legislative reforms. While advanced technologies can serve as tools for providing timely information and improving oversight, ensuring a family-like environment is of vital importance for the psychological and social development of a child. Therefore, these scholarly reflections offer valuable guidance for legislators seeking to design well-balanced, evidence-based solutions.

Globally, several important trends are emerging in the field of guardianship and trusteeship. First, the shift from institutional placement to family-based care for children has become a universal principle. The United Nations Convention on the Rights of the Child affirms every child's right to grow up in a family environment and places an obligation on the state to uphold this right⁶. Similarly, the 2009 UN Guidelines for the Alternative Care of Children⁷ recommend prioritizing family-based care arrangements over institutional forms, wherever possible.

Over the past decade, many countries have implemented programs aimed at reducing the number of orphanages and transitioning children to family-based care models, such as foster care. For example, in 2012, a regional call to action was adopted among Central and Eastern European and CIS countries, urging the discontinuation of placing children under the age of three in institutional care. In alignment with this policy, Uzbekistan launched reforms in 2020 to develop the foster family (patronat) model. These measures included increasing the

⁵ Sattarova, A. I. Problems of placing a child left without parental care for adoption and in a foster family / A. I. Sattarova. - Text: direct // New Law Bulletin. - 2023. - No. 2 (41). - P. 36-39.

⁶ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

⁷ <https://www.sos-childrensvillages.org/getmedia/4972cb2e-62e1-4ae8-a0bc-b0e27fe3ea97/101203-UN-Guidelines-en-WEB.pdf>

allowance paid to foster families and introducing specialized training courses for foster parents⁸.

Overall, international standards require that children, whenever possible, remain in a family environment or be transitioned into family-based care as soon as feasible. Institutional care should be employed only as a last resort and in exceptional cases.

Secondly, there are existing mechanisms for harmonizing the legal foundations of guardianship and trusteeship at the international level. Specifically, several international conventions have been adopted to regulate the identification of competent state authorities and mutual recognition of decisions related to unaccompanied children or incapacitated persons. For instance, the 1961 Hague Convention established rules regarding competent authorities and applicable law in matters of child protection. According to the convention, the authorities of the child's country of habitual residence are deemed competent to appoint a guardian⁹.

Furthermore, the 1980 European Convention introduced procedures for the mutual recognition and enforcement of court decisions related to the appointment and restoration of guardianship across member states. Within the framework of aligning Uzbekistan's legislation with international standards, it is advisable to incorporate conflict-of-law norms and address mechanisms for cross-border cooperation.

Thirdly, a new global approach is emerging in relation to guardianship for adults with disabilities particularly those who, due to intellectual or psychological conditions, are unable to fully exercise their legal rights.

Article 12 of the 2006 United Nations Convention on the Rights of Persons with Disabilities (CRPD)¹⁰ affirms that all individuals are equal before the law and possess legal capacity on an equal basis with others. It encourages the replacement of traditional guardianship systems with the concept of "Supported Decision-Making." This approach calls for abandoning the practice of declaring persons with disabilities entirely incapacitated and assigning a guardian to make decisions on their behalf. Instead, it emphasizes empowering individuals to make their own decisions, with assistance from family members, professionals, or community support networks where necessary.

In line with this paradigm, many countries have begun reforming the adult guardianship system to preserve the legal agency of persons with disabilities. For example, organizations within the European Union advocating for the rights of persons with disabilities have deemed the guardianship model incompatible with modern legal principles and propose its gradual replacement with supported decision-making frameworks¹¹. Although this represents a significant shift, it is not being implemented all at once. Some countries, such as Canada, Australia, and Germany, have already introduced legal reforms that limit the scope of guardianship and prioritize retaining the individual's autonomy to the greatest extent possible.

⁸ <https://cabar.asia/en/how-the-orphanhood-problem-in-uzbekistan-can-be-solved>

⁹ Sadullaev K.Yu. Determination of guardianship and patronage in the protection of the rights of an individual in private international law // Lawyer's Herald – Lawyer Herald. No. 4 (2021). P. 43-48.

¹⁰ <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>

¹¹ <http://www.inclusion-europe.eu/the-european-union-must-urge-member-states-to-eliminate-guardianship-regimes/>

As Uzbekistan undertakes reforms to its Law “On Guardianship and Custodianship,” it is essential to take into account these international standards concerning the protection of the rights of persons with disabilities. Specifically, in cases where adults are declared legally incapacitated, the process of appointing a guardian must include mechanisms that minimize restrictions on their rights and freedoms and enable support in decision-making rather than substitution.

In conclusion, global trends in the development of guardianship systems emphasize prioritizing the best interests of the child, enhancing cross-border cooperation, and upholding the rights of persons with disabilities without discrimination. If Uzbekistan aligns its legislation with these emerging standards, it will not only fulfill its international obligations but also establish a more just and modern guardianship framework that meets contemporary needs.

The experience of certain foreign countries in the field of guardianship and family placement of children can serve as a model for reforming Uzbekistan’s national legislation.

For example, the legislation of the Russian Federation places particular emphasis on protecting children’s rights. Following the constitutional amendments of 2020, Russia officially declared that “children are a national priority,” and the right of every child to be raised in a family environment was guaranteed by the state¹². Russian family law recognizes four forms of family-based care for children:

- Adoption;
- Guardianship and custodianship;
- Foster (patronage) families;
- State-run children’s homes (boarding institutions)¹³.

Currently, guardianship (opeka) is the most widely used among these options. This is largely because guardians are appointed by local government decision without court involvement, and they receive financial support from the state for the child’s upkeep. However, despite these mechanisms, the number of orphans and children without parental care in Russia remains relatively high. As of early 2022, approximately 383,000 children were officially recorded as lacking parental care. While many of them are placed in guardianship or foster families, a significant portion still reside in institutional care settings¹⁴.

To address this issue, the Russian government has in recent years introduced measures such as promoting the development of "professional family" institutions, implementing specialized training programs for guardianship officials, and encouraging broad participation from volunteer organizations.

In our view, Uzbekistan can draw from this legislative experience by refining the procedures for foster care and guardianship within the Law “On Guardianship and Custodianship,” establishing a systematic training program for staff in guardianship bodies, and introducing legal provisions that incentivize family-based placement of children.

¹² Sattarova, A. I. Problems of placing a child left without parental care for adoption and in a foster family / A. I. Sattarova. - Text: direct // New Law Bulletin. - 2023. - No. 2 (41). - P. 36-39.

¹³ <https://www.demoscope.ru/weekly/2014/0609/tema04.php>

¹⁴ Sattarova, A. I. Problems of placing a child left without parental care for adoption and in a foster family / A. I. Sattarova. - Text: direct // New Law Bulletin. - 2023. - No. 2 (41). - P. 36-39.

In Western countries, the systems of guardianship and adoption have a long-standing history and are supported by well-developed infrastructure. For example, in the United States, the processes of assigning guardianship and adoption are coordinated through electronic information systems. Each state operates its own digital platform that consolidates data on children in need of care and potential guardians.

Moreover, several countries are increasingly incorporating advanced technologies into child guardianship and supervision. For instance, some U.S. social services have piloted the use of big data analytics and predictive models to protect children from abuse. A notable case is the experience in Pennsylvania, where algorithms were used to help social services prioritize incoming reports¹⁵.

In addition, countries within the European Union have implemented mutual recognition and enforcement mechanisms for guardianship-related court decisions. For example, when a child is placed under guardianship or adopted in one EU member state, the decision is promptly recognized and enforced by other member states. This system ensures the protection of children's interests in cross-border situations and relies on international cooperation.

Uzbekistan could consider incorporating similar norms into its legislation in the future, regulating the exchange of guardianship-related information and mutual recognition of decisions with foreign countries either through bilateral agreements or accession to international conventions.

Of course, adapting international practices into national legislation requires careful consideration of local conditions and values. Finland's experience, in particular, demonstrates the advantages of using digital technologies in guardianship oversight. In this country, guardians are required to submit annual reports regarding the property and interests of the children under their care. This process is conducted electronically via the dedicated Guardianship e-service portal. The system allows guardians to complete their reports online, using previous submissions as templates to simplify reporting¹⁶.

Such digital solutions streamline the operations of guardianship authorities and automate the storage and analysis of reports. Therefore, it is both possible and beneficial to integrate successful practices from countries like Finland into Uzbekistan's legal framework. Specifically, transitioning guardians' reporting obligations to a digital format and legally empowering guardianship bodies to conduct electronic monitoring could be key directions for reform.

Based on the analysis of international practices mentioned above, the following proposals are put forward for improving the Law of the Republic of Uzbekistan "On Guardianship and Custodianship":

Digitization and Electronic Public Services:

It is necessary to establish guardianship appointments and reporting procedures as official electronic public services. To achieve this, the law should include provisions allowing for electronic applications, automatic retrieval of necessary data from state databases, and

¹⁵ <https://thedailyrecord.com/maryland-family-law/2025/06/25/protecting-the-vulnerable-or-automating-harm-ais-double-edged-role-in-spotting-abuse/>

¹⁶ <https://dvv.fi/en/guardianship-for-a-minor>

specific timelines for decision-making based on the “one-stop-shop” principle. As a result, citizens would gain the ability to access services remotely.

Development of Family-Based and Alternative Care Forms:

The legislation should be strengthened with clear norms regarding forms such as foster families (patronat), temporary guardianship, and incentives for adoption. In order to ensure every child’s right to grow up in a family environment, the law should mandate state-supported financial and organizational assistance (benefits, counseling services, training of prospective guardians, etc.). As international experience demonstrates, supporting family-based care improves children’s social integration and helps them build successful futures in society.

Selection and Training of Guardianship Candidates:

The law should also cover the evaluation and training of individuals applying to become guardians (or custodians, foster parents). For instance, completing a mandatory training course could be a legal prerequisite a practice that has proven effective in several countries. Such preparation would equip guardians with the skills to properly communicate with the child, assess their needs, and resolve conflicts, ensuring they take on their role with the necessary responsibility. This mechanism is expected to positively influence the overall quality of guardianship.

International Cooperation and Mutual Recognition of Decisions:

Uzbekistan should consider joining international conventions or signing bilateral agreements to regulate mutual recognition of guardianship decisions and the repatriation of children. This is particularly important for protecting the interests of Uzbek citizens abroad especially orphaned children or those without parental care. For example, if a citizen’s child abroad is in need of guardianship, Uzbekistan’s consulates must be empowered by law to cooperate with the relevant foreign authorities to promptly appoint a guardian. Likewise, if foreign relatives wish to adopt a child under Uzbek guardianship, proceedings should be conducted in accordance with international standards. Incorporating such mechanisms into national legislation would bring it into alignment with global norms.

CONCLUSION

The analysis and comparative review above clearly indicate that reforming the Law “On Guardianship and Custodianship” has become a timely necessity. First, the law must be updated to align with Uzbekistan’s broader digitalization reforms in the public sector. This includes transitioning guardianship appointments and reporting processes to fully electronic formats and establishing procedures for interagency data exchange via integrated information systems.

Additionally, the law needs to more fully enshrine the child’s right to grow up in a family environment. Developing the institutions of foster and guardianship families, initiating structured training for guardianship candidates, and strengthening state guarantees for protecting the rights of children under guardianship are all essential. International experience

and scientific analysis confirm that these reforms will foster conditions conducive to both the physical and moral development of children.

Thus, by implementing the suggested legal amendments and additions, Uzbekistan can elevate its guardianship and custodianship system to a new level. This would fulfill three major objectives: guaranteeing children's rights, rapidly addressing citizens' needs, and upholding international obligations. Ultimately, improving the Law "On Guardianship and Custodianship" would once again demonstrate that New Uzbekistan is firmly committed to the principles of social justice and humanism.

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