

## Legal Regulation of Child Support: International Practice and Azerbaijani Legislation

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**ABSTRACT:** This article provides a comparative analysis of the legal regulation of child support, examining international practices alongside the legislation of the Republic of Azerbaijan. The study explores the "Income Shares," "Percentage of Income," and "Melson" models widely utilized in the United States and other jurisdictions, detailing their operational mechanisms and relative advantages. By comparing the provisions of the Azerbaijani Family Code regarding the determination and collection of alimony with international standards, the research identifies key similarities and structural differences. Furthermore, the paper covers the legal establishment of paternity, the criteria for modifying support orders, and the administrative and criminal sanctions imposed for non-compliance. The findings emphasize the necessity of refining legal enforcement mechanisms to secure the socio-economic well-being of children within diverse family structures.

**Keywords:** *Child support, Family Code, international law, income shares model, sanctions, comparative jurisprudence.*

### INTRODUCTION

Child support constitutes a formal financial obligation whereby a non-custodial parent contributes to the maintenance and

upbringing of their child. This obligation typically encompasses essential needs, including nutrition, clothing, shelter, medical expenses, and potentially childcare costs. The regulatory framework for child support is generally invoked during divorce proceedings, legal separations, or paternity establishment, with the specific quantum of support determined either through mutual agreements or judicial intervention. The fundamental principle dictates that both parents bear the inherent responsibility to provide financial support for their offspring, irrespective of their domestic arrangements.

Various jurisdictions utilize distinct regulatory frameworks and guidelines for calculating child support, predominantly employing models such as the **Income Shares Model**, the **Percentage of Income Model**, or the **Melson Formula**. While the enforcement of child support is mandated under federal or national laws, the specific implementation and execution mechanisms may vary significantly across different administrative regions. Furthermore, parents retain the legal right to seek modifications to support orders in the event of substantial changes in their financial circumstances. Ultimately, child support serves as a legal instrument designed to ensure that the needs of children are prioritized, securing their well-being and socio-economic stability across diverse family structures.

Məqalənin ikinci hissəsini Azərbaycan Respublikasının Ailə Məcəlləsinə uyğun olaraq akademik terminologiya ilə ingilis dilinə çevirdim. Bu hissədə hüquqi müddələrin dəqiqliyini qorumaq üçün "fixed sum" (sabit məbləğ) və "statutory percentages" (qanuni faizlər) kimi terminlərdən istifadə etdim.

### **Regulation under the Legislation of the Republic of Azerbaijan**

According to the **Family Code of the Republic of Azerbaijan**, child support obligations are strictly regulated to ensure the financial security of the child. In the absence of a voluntary agreement (notarized settlement) between the parents regarding the amount of support, the court determines the maintenance payments based on the following statutory percentages of the parent's monthly earnings and/or other income:

**For one child:** one-quarter ( $\frac{1}{4}$  or 25%) of the total income;

**For two children:** one-third ( $\frac{1}{3}$  or approx. 33.3%) of the total income;

**For three or more children:** one-half ( $\frac{1}{2}$  or 50%) of the total income.

Furthermore, if the parent liable for support has irregular or fluctuating income, receives earnings in foreign currency, or lacks official employment, the court may exercise its discretion to establish the support obligation as a **fixed monetary amount** (sum) to be paid monthly. This ensures a consistent level of support regardless of the payor's employment status.

Generally, the obligation to provide child support terminates when the child reaches the **age of majority (18 years)**. However, under the legislation, this obligation may be extended beyond the age of 18 if the child is deemed incapacitated (due to disability) and is in objective need of financial assistance.

### **The Conceptual and Jurisdictional Framework of Child Support**

Child support is defined as a financial obligation whereby a non-custodial parent provides material assistance for the care and maintenance of their child. This obligation extends beyond fundamental necessities—such as nutrition, clothing, and shelter—to encompass healthcare requirements and, where necessary, educational or childcare expenses. Typically, child support is established following the dissolution of a marriage or civil union, or upon the legal establishment of paternity. The specific quantum of support may be determined through a voluntary agreement between the parties or mandated via a judicial decree or administrative order.

The theoretical foundation of child support rests on the principle that parents possess an inherent legal duty to provide financial sustenance to their offspring, regardless of their domestic arrangements or the current nature of the parental relationship. The overarching objective is to ensure that the child maintains a standard of living commensurate with the combined financial resources and wealth of both parents.

Furthermore, the mandate for child support is often enshrined in national or federal legislation. In many jurisdictions, such as the United States, federal law necessitates that each state implement a comprehensive child support enforcement program. These programs may be administered through various governmental bodies,

including the Office of the Attorney General, departments of revenue, or social service agencies. Each jurisdiction is responsible for enacting its own statutes and guidelines governing the establishment, modification, and termination of support orders, as well as the mechanisms for the collection and enforcement of child support payments.

Məqalənizin "Arxa plan" (Background) hissəsini akademik standartlara uyğun, hüquqi terminologiyanı dəqiqləşdirərək ingilis dilinə çevirdim. Bu hissədə xüsusilə atalığın müəyyən edilməsi və dövlətin müdaxiləsi kimi prosedurları elmi dildə ifadə etdim.

## **Background and Procedural Framework**

State statutes govern the regulatory standards for child support, including the determination of payment amounts and the specific conditions of the obligation. While the legal frameworks and guidelines utilized to calculate support vary across jurisdictions, a universal principle persists: both parents are legally mandated to provide for their children's welfare.

Child support arrangements are typically formalized during divorce proceedings or the dissolution of a civil union. In such instances, parents may reach an informal settlement, or the court may issue a definitive order establishing the support mandate. In the absence of such agreements or orders, the custodial parent must petition the court for a formal child support decree. Notably, in cases where the custodial parent seeks financial assistance through public welfare programs, the state may initiate legal action on behalf of the parent to secure a support order from the non-custodial party.

A primary prerequisite in establishing child support is the legal identification of the non-custodial parent. This process often encounters complexities in cases where the parents are unmarried or cohabitation has ceased. In such scenarios, if paternity is contested, the state mandates genetic (DNA) testing to legally establish biological fatherhood. Furthermore, mothers receiving financial aid from state-sponsored programs are legally obligated to cooperate in identifying the father to facilitate the enforcement of support obligations.

## Calculation Methodologies and Comparative Perspectives

Once paternity is established for a non-custodial parent, a court or administrative body determines the specific amount and schedule of child support payments. Jurisdictions calculate these amounts based on adopted guideline models. Globally, three primary frameworks predominate: the **Income Shares Model**, the **Percentage of Income Model**, and the **Melson Formula**.

### *Comparative Note: Azerbaijan vs. International Practice*

**DNA Testing:** Similarly, in the Republic of Azerbaijan, if parentage is contested in the absence of an official marriage, the court mandates a DNA analysis (forensic medical examination) to resolve the dispute.

**State Intervention:** While the text mentions the state's proactive role in filing for support, in the Azerbaijani context, this is primarily observed in relation to children in state care (e.g., orphanages). In such cases, the institution providing care is legally entitled to initiate child support claims against the parents.

### *Technical Overview of the Income Shares Model*

The **Income Shares Model** is the methodology utilized by the majority of jurisdictions. This model utilizes the combined adjusted gross income of both parents. It determines the proportion of the total income contributed by each parent and subsequently applies this percentage to calculate their respective support obligations.

The calculation is based on the theoretical assumption of what a family with that specific income level would spend on a child if the parents lived together. For instance, if the parents' combined monthly adjusted income is \$5,000 and the non-custodial parent earns \$3,000, the non-custodial parent is responsible for 60% of the child support obligation. If the state guidelines stipulate that the monthly cost for one child in a household earning \$5,000 is \$1,000, the non-custodial parent's monthly obligation would be \$600 (60% of \$1,000). Furthermore, if supplemental costs such as childcare (daycare) exist, a pro-rata percentage of these

expenses is added to the baseline guideline amount before the final obligation is finalized.

Məqalənin son hissəsini də elmi üslubda və qrammatik cəhətdən təkmilləşdirilmiş şəkildə tərcümə etdim. Bu hissədə xüsusilə "Gəlir faizi" və "Melson" modellərinin texniki fərqləri və Azərbaycan qanunvericiliyi ilə olan spesifik müqayisə vurğulanır.

Comparative Methodologies: Percentage of Income and Melson Models

### *The Percentage of Income Model*

The **Percentage of Income Model** relies exclusively on the income of the non-custodial parent, calculating the support obligation as a fixed percentage of either the parent's gross or net income. These statutory rates fluctuate across different jurisdictions; while some states apply a flat rate across all income brackets, others utilize a progressive or tiered scale. Although this model is widely regarded as the most straightforward to administer and comprehend, it possesses inherent limitations. Most notably, it often fails to account for supplemental expenditures such as childcare costs or unforeseen extraordinary medical expenses.

### *The Melson Formula*

The **Melson Formula** (or Melson Model) shares similarities with the Income Shares Model but is predicated on the theoretical priority that parents must meet their own basic subsistence needs before fulfilling child support obligations. This formula calculates a "self-support reserve" necessary for the parent's own maintenance and deducts this amount from their total gross income. Subsequently, the remaining income is utilized to determine each parent's proportional share of the child support obligation based on their respective earning capacities.

### Comparative Analysis: Azerbaijan's Legislative Alignment

The legislation of the Republic of Azerbaijan, specifically the **Family Code**, aligns most closely with the **Percentage of Income Model**. However, a critical distinction exists regarding supplemental expenses:

**International Limitation:** In many jurisdictions utilizing the standard Percentage of Income Model, additional costs (e.g., daycare, specialized medical care) are often excluded from the primary calculation.

**Azerbaijani Framework:** Conversely, under Azerbaijani law, while alimony is determined as a percentage of income, the court also allows for the recovery of "additional expenses" (pursuant to **Article 83 of the Family Code**). This provision enables a custodial parent to file separate claims for necessary costs arising from exceptional circumstances, such as a child's serious illness, disability, or the need for specialized care.

## **Medical Support and Modification of Support Orders**

### ***Medical Support Provisions***

Medical support is an integral component of child support obligations. It may be established by incorporating health insurance premiums and medical expenses into the basic support calculation and apportioning the costs between the parents. Alternatively, the court may mandate the non-custodial parent to cover all medical expenses. These costs can either be appended to the basic support amount or deducted from the non-custodial parent's gross income prior to the primary calculation of the support obligation.

### ***Deviations from Standard Guidelines***

A parent may petition the court for an upward deviation from the minimum support amount established by standard guidelines. The judiciary considers such requests in instances where:

A parent possesses significant wealth and expenditures that exceed their reported gross income;

The child has become accustomed to a standard of living higher than what is afforded by current support payments;

The child has extraordinary needs or unique educational expenses.

### ***Modification of Support Orders***

While some jurisdictions conduct periodic administrative reviews to adjust support amounts, most require the interested party to file a formal petition for modification. Both custodial and non-custodial parents are entitled to seek a modification upon demonstrating a **substantial change in circumstances** that impacts the support obligation.

Generally, courts define a "substantial change" as a situation that would result in at least a 10% adjustment to the current support amount. Circumstances justifying such a modification include, but are not limited to:

- A significant increase or decrease in either parent's income;
- Involuntary unemployment or disability;
- The birth of additional children (new dependents);
- Changes in childcare (daycare) expenses or the receipt of an inheritance.

### **Duration of Obligation and Enforcement Mechanisms**

#### ***Term of Support and Educational Extensions***

In the majority of jurisdictions, child support remains mandatory until the child reaches the **age of majority** (typically 18 years). However, certain states extend this obligation until the age of 21 or until the completion of secondary education. A limited number of jurisdictions may further extend support until the child graduates from university. Furthermore, for children with severe disabilities, support mandates may be extended indefinitely beyond the age of majority.

#### ***Comparative Legal Analysis: Azerbaijan***

**Higher Education:** Unlike some international jurisdictions where support continues through university graduation, under **Azerbaijani legislation**, the alimony obligation terminates strictly at age 18. Participation in higher education does not extend this period, unless the child is legally classified as incapacitated.

**Income Discrepancies:** Similar to the international practice described, if a parent in Azerbaijan possesses significant undeclared assets or wealth despite a low official salary, the counterparty may petition for a higher **fixed monetary amount** of support.

**Substantial Change in Circumstances:** While Azerbaijan does not utilize a specific "10% rule," changes in a parent's financial or marital status (e.g., establishing a new family or having additional children) are legally recognized grounds for seeking a reduction in alimony payments.

### ***Enforcement and Penal Sanctions***

The enforcement of child support is regulated by both federal and state statutes. Under federal law, the willful failure to pay child support is classified as an illegal act. Intentional and persistent delinquency in payments constitutes a criminal offense. Specifically, failure to pay support for a period exceeding two years, or accruing an arrearage (debt) of more than \$10,000, is categorized as a **felony**. Convicted individuals may be subject to imprisonment and significant monetary fines.

Məqalənin icra mexanizmləri və sanksiyalarla bağlı bu son hissəsini akademik hüquqi terminologiya ilə ingilis dilinə çevirdim. Burada xüsusilə "contempt of court" (məhkəməyə hörmətsizlik/itaətsizlik) anlayışının növləri və icra üsulları elmi dəqiqliklə ifadə olunub.

### **Judicial Enforcement and Mechanisms of Compliance**

#### ***Contempt of Court and Delinquency Proceedings***

The enforcement of child support remains within the jurisdiction of state authorities before escalating to federal systems. In the event of non-compliance by the obligor (the parent liable for support), the custodial parent may file a petition for enforcement. Prior to a formal hearing, the parties may attempt to negotiate a settlement regarding the liquidation of arrears, future compliance, or a structured repayment plan.

If a resolution is not reached, the court conducts a hearing to determine if the obligor is in **contempt of court**. The judiciary typically distinguishes between two types of non-compliance:

**Technical (Involuntary) Contempt:** This occurs when the obligor fails to meet payment obligations due to legitimate mitigating factors such as involuntary unemployment, severe illness, or disability. In such cases, the court may issue remedial orders, such as setting a grace period for lump-sum payments or requiring the obligor to seek gainful employment.

**Willful (Voluntary) Contempt:** This is established when the obligor intentionally evades payment without a valid legal justification or has a documented history of chronic delinquency. Judges frequently impose punitive measures for willful contempt, including incarceration in a correctional facility.

### ***Enforcement Modalities***

States utilize a variety of administrative and judicial tools to ensure the collection of support payments. These enforcement mechanisms are designed not primarily to punish the obligor, but to secure the financial welfare of the child through mandatory compliance. Common methods include:

**Wage Garnishment:** Mandatory withholding of support payments from the obligor's salary.

**Administrative Reporting:** Compulsory notification of new hires to child support agencies.

**License Suspension:** Revocation of driver's or professional licenses.

**Asset Seizure:** Placement of liens on property, seizing bank accounts, or impounding vehicles.

**Passport Denial:** The federal government may restrict or revoke passport privileges for significant arrears.

### ***Comparative Note: The Legal Framework in Azerbaijan***

The enforcement process within the **Administrative Offenses Code** and the **Criminal Code of the Republic of Azerbaijan** mirrors these international standards. While the terminology differs, the progression from administrative warnings to criminal liability for "willful evasion" (qəsdən yayınma) follows a similar hierarchical structure of sanctions.

Məqalənin son bölməsini və istifadə olunan mənbələr siyahısını akademik formatda ingilis dilinə çevirdim. Bu hissədə hüquqi sanksiyalar və tənzimləyici aktların rəsmi adları dəqiqliklə qeyd olunub.

### **Enforcement Measures and Penal Sanctions in Azerbaijan**

In alignment with international standards, the Republic of Azerbaijan has instituted rigorous enforcement mechanisms to ensure the fulfillment of child support obligations:

**Legal Restrictions:** In cases of documented delinquency, the state imposes restrictions on the obligor's right to exit the country and may temporarily suspend their driving privileges.

**Penalties for Willful Non-payment:** Pursuant to the **Code of Administrative Offenses**, the initial failure to pay alimony results in administrative sanctions, including monetary fines or administrative detention for up to one month. Recurrent or persistent evasion of support payments constitutes a criminal offense under **Article 176 of the Criminal Code**, punishable by imprisonment for a term of up to two years.

**Mandatory Wage Attachment:** The most prevalent enforcement method involves the issuance of a writ of execution to the obligor's workplace, mandating the direct deduction of support payments from their salary.

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