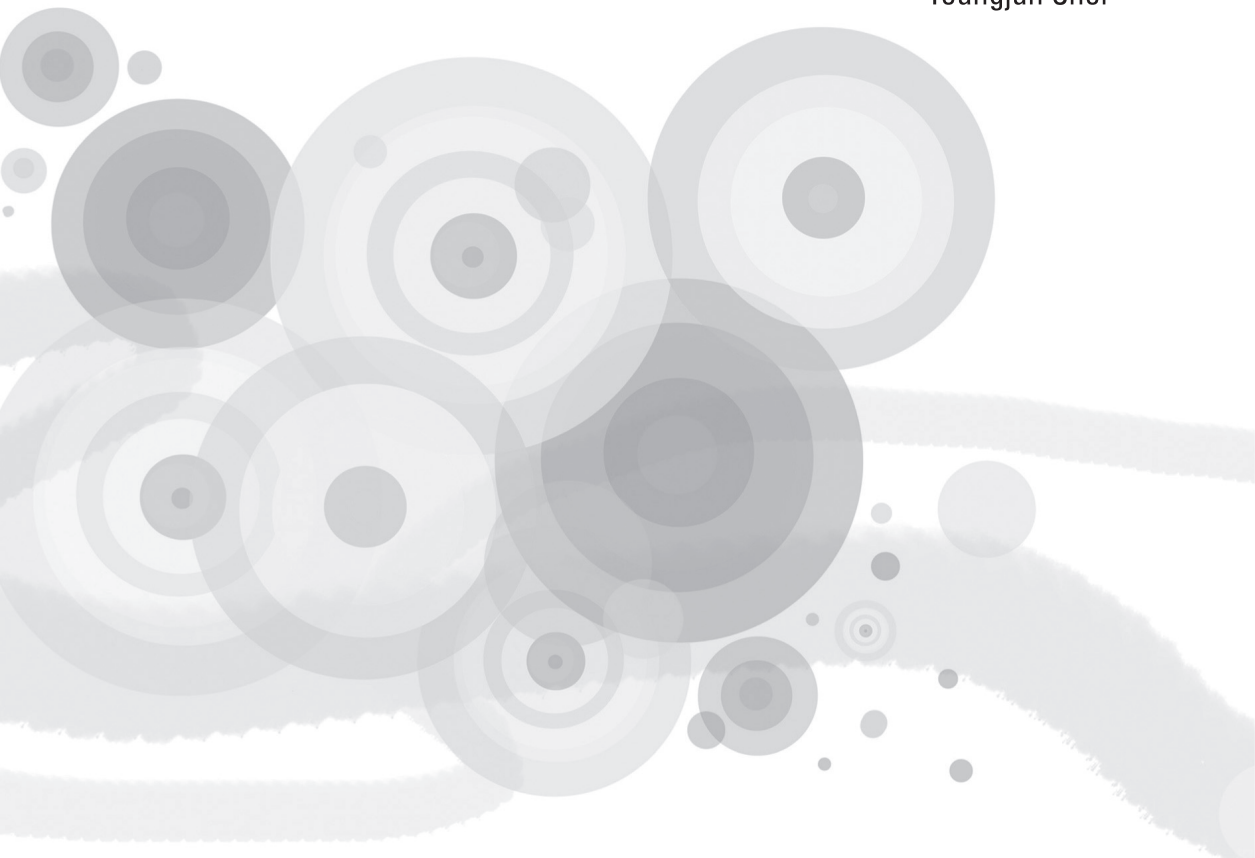




A Study on Establishment of Child Support Scheme in Korea

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Chapter

01

Introduction



Chapter 1

Introduction

1. Necessity and Purpose of the Study

1) Necessity of the Study

Although the recent crude divorce rate in Korea has remained stable, still many divorce cases occurred. Specifically, the crude divorce rate was 0.4 in 1970, 0.6 in 1980, 1.1 in 1990, 2.5 in 2000, and 3.4 in 2003, which was the highest in several decades. In terms of annual divorce cases, there were 11.6 thousand cases in 1970, 23.7 thousand cases in 1980, 45.7 thousand in 1990, 119.5 thousand in 2000 and 166.6 thousand cases in 2003. After reaching its peak in 2003, the number of divorce cases has declined to 116.9 thousand divorce cases in 2010 (Statistics Korea).

Statistics show the severeness of child support costs for underage children occurred by divorce. In other words, almost 70 percent of the divorced families had one or more underage children in 2000. Though the figure has recently been decreased to 50 percent, it still indicates that about one hundred thousand children are experiencing divorce of their parents.

〈Table 1-1〉 Divorce cases by having underage children

(unit: a thousand cases, %)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Total	119.5	134.6	144.9	166.6	138.9	128.0	124.5	124.1	116.5	124.0	116.9
with underage children	84.3	94.8	101.2	114.1	91.1	81.2	75.7	72.8	63.0	68.5	62.9
no underage children	33.4	37.5	41.7	49.2	46.4	45.4	48.2	50.9	52.9	55.1	53.7

Data: Statistics Korea, Statistics of marriage and divorce, each year

Furthermore, lawsuit divorce has been increased and this might cause problems of child support calculation and enforcement. If child support calculation and enforcement are not properly proceeded, it would impose financial burden on custody parents and society.

〈Table 1-2〉 Divorce cases and rates by type of divorce

(unit: %)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Agreement Divorce	83.5	82.7	83.9	85.9	84.4	86.5	86.6	84.7	77.9	76.2	75.2
Lawsuit Divorce	16.1	16.8	15.7	13.4	15.1	12.8	13.2	15.2	22.1	23.8	24.8

Data: Statistics Korea, Statistics of marriage and divorce, each year

In Korea, there is no child support guideline so far. Due to lack of the guideline, agreement of child support is often in dispute and divorced couples are likely to be conflictual with their children. Moreover, even in agreement divorce cases, there is no guideline to help child support calculation but people only depend on mutual agreement. In sum, it is apparent that child

support scheme in Korea has to be improved as soon as possible.

Civil Law section 837(child support responsibility of divorced parents) only stipulates that the amount of child support can be calculated based on each party's agreement or court can define the amount considering all the family matters(age of children, wealth of each parent, etc.).

In 2009, there were some improvements, such as 'Establishing child support certificate', 'Court order of direct payment', and 'Child support enforcement order by law'. These policies put child support duty of family in statutory forms, but actual effects are insignificant.

In result, custodial parents are likely to take entire obligation of child support. Moreover, there is no public social support unless the custody parents fall to poverty. Unlike Korea, leading countries have child support guidelines that enable child support calculation considering non-custody parents' income, number of children, and other factors. Also, the countries have child support enforcement systems by courts or child support agency.

In this background, establishing child support calculation guideline and child support enforcement system is required in Korea. In other words, research for providing fundamental guideline of child support scheme is needed. Also, discussions on government's role for stable child support enforcement are needed. Particularly, since Korea does not have child support scheme yet, study of leading countries' scheme is necessary to benchmark successful cases.

2) Purpose of the Study

The purpose of this study can be summarized as follows. First, providing child support guideline suited in Korea's situation by analyzing leading countries' child support schemes. Second, promoting active use of the guideline by participation of family law professionals in this study.

This study aims two goals. First, enabling children in divorced families to get proper support for growth and development. Second, promoting single-custody parents' stabilization of livelihood and non-custodial parents' child-rearing responsibilities.

2. Details and Methods of the Study

1) Details of the Study

Details of the study to achieve the purposes are divided into following four contents.

First, the study analyzes leading countries' definition of child support, calculation guideline, ways of child support calculation.

Second, this study analyzes leading countries' child support scheme and draw important findings. Specifically, this study analyzes two different types of child support scheme; court-oriented type and child support agency-oriented type. The subjects of this study are Germany, United Kingdom, Australia, New Zealand, and the United States that own well-established child support schemes.

Third, conducting fundamental analysis for child support calculation in Korea. In the analysis, this study explores Korean's consciousness of child support responsibility and assess proper amounts of child support considering household and child characteristics.

Fourth, this study offers strategies for adopting child support scheme. The fourth content is the final goal of this study that provides a guideline of child support scheme by discussing operational definition of child support suited in Korea, tactics of child support calculation, and enforcement options.

2) Methods of the Study

Research methods used to achieve the purpose of this study are followings. The first one is a literature review. This study collects and analyzes advanced researches and articles about current child support policies.

Second, the study re-analyses existing data related to child support cost. Specifically, this study conducts analysis of expenditure data of *National household survey* of Statistic Korea(KOSTAT) and *The 2009 National Survey on Fertility, Family Health and Welfare in Korea* of Korea Institute of Health and Social Affairs(KIHASA).


Third, holding conferences with professions. Professional groups consist of law professionals of supreme court and judges from family court. This group mainly discusses about child support calculation guideline and policy adopting strategies.



Chapter

02

Literature Reveiws on Child Support Scheme in Korea



Chapter 2

Literature Reviews on Child Support Scheme in Korea

1. Literature Reviews on Child Support Guideline in Korea

Child support means cost of protection, education, care of underage children, and also parents' pure economical payment obligation. Cost of child support can be calculated by sum of direct expenditure, such as food, clothes, education and indirect expenditure, such as psychological and physical labour(Lazear & Michael, 1988; Kim, 1999; Kim et al., 2011).

Child support costs include all the matters; not only food, clothing, and a shelter but also direct expenses like education cost, medical cost, recreation activity cost, and non-operation expenses(Shin, 2007).

Child support is a generic term of cost spent on children including individual expenses, such as food, clothing, medical expenses, public education, private education, etc. In addition, household common expenditure, such as housing, light and heating, water charge, furnitures, household goods, recreation, transportation and communication and other consumption expenditure(Kim et al., 2003, 2006, 2009).

Many studies discuss that though there have been improvements in the child support scheme with the amendment of Civil Law in 2007, 2009 and Family suit Law in 2007, the child support

guideline is still unclear and that more needs to be done to improve it.

Advanced researches point out that child support guideline might specially deal with whether periodical child support calculation is possible or not, and child support calculation for children with disabilities.

Current child support is uniformly calculated without consideration of the period of growth. However, the child support scheme might adopt differential rate according to children's process of growth(Cho, 2010; Kim et al., 2011).

Divorce and decision of custody, agreed child support amount and paying method, negotiation of meeting with children would occur at the same time in order for improving child support enforcement(Chun, 2008; Kim et al., 2011).

Government might operate an agency that deals with child support issues in order to provide chances of child support agreement for couples who are proceeding divorce. Also, Korea would adopt leading countries' child support guideline to solve problems occurred by unclear standard of calculation and long time taking child support settlement(Cho, 2006; Kim et al., 2011).

As Korea has no child support standard yet, Korea might consider to establish detailed guideline for calculating child support. It is important to harmony parents' primary duty of child rearing and state's duty for supporting special cases like practically divorced or separated couples, single mothers, children in kinship care or foster care. Legalization of standard child support amount is required(Park, 2005; Kim et al., 2011).

2. Literature Reviews on Child Support Enforcement in Korea

Korea needs to enact the Mandatory Child Support Enforcement Law as a public child support regulation and establish enforcement administration system. Also cooperation with other states is required to ensure child support from parents in overseas. In addition, when couples are preceeding divorce, government might ensure some portion of the couples' property for providing stable livelihood of children from divorced families. (Ko, 2009; Kim et al., 2011)

Three policy options can be considered for ensuring child support. First, 'advanced child support payment' can be established to secure children's right to be cared by their parents. Second, 'tax benefit for paid child support' would promote non-custodial parents' child support payment. Third, 'distribution of parents' property' can be legalized to ensure some portion of each parent's property for child support(Chun, 2008; Kim et al., 2011).

There are critiques about problems on child support scheme in Korea and discussions regarding to policy alternative, based on leading countries' child support laws and schemes. First, adoption of 'Advanced child support payment' which gives government executive authority to enforce child support can be considered. Second, welfare policy should be related to child support scheme to ensure children's right to live. Third, empowering agencies for supporting single-custody parents are important in order to provide welfare service in case of not getting child support properly. Specifically, contents of the welfare service would include providing opportunities for self-reliance,

strengthening education support, securing housing, and medical support(Cho, 2006; Kim et al., 2011).

Non-custody parents' duty of child support payment might be put in statutory form by law. 'Preparatory distraintment' would be established to ensure child support before the time appointed payment. In case of child support is not paid even once, the amount of child support might be insured by enforcing payment from income including future child support. In addition, 'advanced child support payment' is needed to connect private care and social security when child support is not paid(Park, 2005; Kim et al., 2011).

The National Tax Service may provide income and property information of non-custody parents. At the same time, 'advanced payment' needs to be operated to ensure child support when non-custody parents do not pay child support or the parents cannot pay child support. The Ministry of Health and Welfare's public assistance system, and policies for children and family might be connected to support single parents to perform their child support duty by entering labor market and enhancing self-reliance(Kang, 2010; Kim et al., 2011).

3. Implication of Literature Reviews on Child Support Scheme in Korea

Literature reviews on child support scheme provides following implications.

First, in Korea, the definition of child support is not found yet. In addition, it is also unclear how child support is different

with living expenses. In other words, current law and policies use the term ‘child support’ confusedly with living expenses according to each law and policy’s purpose. However, Korea and many other countries define child support or living expenses as all that is spent on children. Thus, child support may be defined as the sum of cash translation of cash, goods, and services.

Second, ensuring child support enforcement is an important task which should be dealt with head on. In many affluent countries, though in different ways, parents or governments take up child support responsibilities. Children’s right to live should be ensured regardless of their parents’ marital status. To that end, the policy efforts should be made to foster a social environment where each and every child can grow in safe and healthy ways.



Chapter

03

Child Support Calculation and Enforcement System in Korea



Chapter 3

Child Support Calculation and Enforcement System in Korea

1. Definition of Child Support in Korea

Although many existing legislations have specified the provision of child support, none of them defines what child support actually is, much less what its range or level should be. The Domestic Violence Prevention and Victim Protection Law(section 7 article 1) and the Sexual Violence Prevention and Victim Protection Law(section 14 article 1) specify that a state or local governments can provide living expenses, child education cost, and child support to victims or directors of protective facilities in case victims of sexual violence in protective facilities are in need. Also, Sole-Parents Support Law(section 12 article 1) stipulates that a state or local governments may provide welfare provision, such as living expenses, child education cost, and child support.

In addition, many policies including Sole-Parents Support, Supporting Child Cost for Farmers and Fishermen, and current childbirth policies like Supporting Child Cost for two more children have been operated. However, none of them defines specific meaning and level of the term child support.

Korea's current civil law does not have a specific definition of child support but its section 913 stipulates child protection

and education duty of custody parents. In this context, child support might be understood as the cost for protecting and educating underage children.

Article 2 in Section 48 of Family Lawsuit Law regulates ‘Statement of property’ which means the family court can order a party to state specific property situation for property dismemberment, charging the cost for dependent and child support. Also, the Law stipulates that the process and method of Statement of property is abided by the supreme courts’ rule.

Precedents of Korea show that the courts also ordered child support payment by judgements. However, explanation of what should be included in child support is based on each case but no comprehensive explanation. Looking at specific cases of precedents, the supreme courts’ standard of calculating child support is ‘equality’. On the other hand, the family courts’ decisions of child support have been based on following factors: ① main agent of child support, ② age of children and past child care situations, ③ age and jobs of parents, ④ property.

2. Child Support Calculation Cases in Korea

There is no official child support calculation guideline in Korea. Recently, the family court of Seoul invented a child support guideline table. In general, methods of child support determination in courts are several ways: adjusting net living expenses, minimum living standard, standard household costs, and unit of expenditure. The courts try to case-sensitively calculate valid child support amounts by considering each factors(Jin, 2009; Kim et al., 2011).

Net living standard set a standard by considering real living expenditure of each party's of a divorced couple. This method has a flaw that is likely to overlook parents' income and wealth, because of too much focused on living expenditures.

The minimum living standard method uses a minimum living standard set by the government. This method has detailed calculation which means considering age, sex, household, location, and aid. Standard living expenditure is calculated based on urban household expenditure or household expenditure from annual reports for economical statistics by the state or local governments.

Looking at the child support precedents based on expenditure unit, most of the precedents have judged the amounts of child support without specific criteria. One precedent defined that the amount of child support judged considering the average of city household expenditure and each parent's wealth and income level in case the mother as a custody parent for three parents and father as a non-custody parent pays child support.

The most frequent child support judgement which follows the precedents is about five hundred thousand won. However, there is still no information for voluntary child support agreement and the courts also have no guideline for judgement(Ministry of Gender and Families, 2011).

Korea Institute of Health and Social Affairs(KIHASA) *National Survey on Fertility, Family Health and Welfare in Korea* includes sub-survey on child support costs. The survey specifies child support costs including following ten factors: grocery cost, housing and water, light and heating expenses, furniture, household goods, clothing, recreation, transportation and

communication and other consumption expenditure.

On the other hand, the National Social Security Committee defines items to measure standard household minimum living cost. It contains 11 items: grocery cost, housing, water, light, and heating expenses, furniture, household goods, clothing, medical expenses, education cost, recreation, communication, and other consumptions.

3. Child Support Enforcement System in Korea

An independent agency for child support enforcement does not exist in Korea. The courts play a leading role in child support decision and enforcement.

Courts' right of the child support enforcement is given by regulation of child support payment certification(for agreement divorce cases) and judgements(for lawsuit divorce cases). Also, the family court can order direct child support payment order. According to the revised Family Lawsuit Law in 2009(article 63 section 2), a custody parent can request child support direct payment order to a non-custody parent. This order can regulate a non-custody parent if he or she does not pay child support more than twice. When delay or denial of payments occur, the court can directly charge child support to his or her employer to deduct the amount of the child support from wages. This scheme has a flaw that deduction order is not available when a non-custody parent is a non-registered self-employee or does not receive regular salary. In order to solve the problem, Family Lawsuit Law also has a regulation of Security Offering

Order(Article 63 Section 3). The courts' enforcement can be in effect when custody parents request child support enforcement.

4. Implications of Korea's Child Support Guideline and Enforcement System

Implications from Korea's child support guideline and enforcement system to this research can be summarized as followings.

First, child support might include all expenditures including not only for individual children but also family common consumption factors.

It is reasonable for child support to include children's individual cost and family common consumption factors like grocery cost, housing and water, light and heating expenses, furniture, household goods, clothing, recreation, transportation and communication. One argument can rise up about private education costs, the unique feature of Korea society. Specifically, this argument might wonder whether child support would be charged to non-custody parents including private education costs or not.

Considering the common situation in Korea that most students go to supplementary educational institutes, private education costs can not be ignored. In this context, this study considers the private education costs might be included in child support. In other words, unless the costs are not for exclusively expensive private lessons, private education costs might be considered in child support calculation.

Second, when calculating the amount of child support, both

parents' income and property should be considered. The ways of how to apply both parents' property need to be discussed and agreed by the public.

Property means a father or mother's capacity. So, it is reasonable to consider property when child support is calculating. But a way of how to apply the property needs to be developed. As an example, adoption of 'Conversion of property to Income' from Korea's Social Security scheme or other measurement methods might be discussed.

Third, how to enforce child support is key to the success of a child support scheme.

New child support enforcement scheme might be provided to make up problems of the current scheme that only determines the amounts of child support but merely provide enforcement. In other words, enforcement system should be established to ensure parents' agreements or the courts' orders can be obeyed.



Chapter

04

Child Support Schemes in Leading Countries



Chapter 4

Child Support Schemes in Leading Countries

1. Child Support Scheme in Germany

1) Calculation of Child Support in Germany

In Germany, the Dusseldorf table(Düsseldorfer Tabelle) is used as a guideline(Richtwert)¹⁾ to determine monthly child support amounts. By law revision of 2008, the concept of ‘minimum cost of care’(Mindestunterhalt) was re-introduced. The minimum cost of care(Mindestunterhalt) is determined by objective minimum living expense in the Civil Law.

As the minimum cost of care(Mindestunterhalt) was re-introduced by revision of the law, underage children are able to charge support to a non-custody parent with the minimum support cost. The minimum support costs is calculated based on the rate of doubled ‘child deduction’ according to the income tax law to decide children’s objective minimum expenses²⁾. The

1) Dusseldorf table was introduced in 1962 and has been renewed bi-annually. The table is conducted by an agreement of the supreme court and ‘The family court day child support committee’(Unterhaltskommission des deutschen Familiengerichtstages e. V). Purpose of the dusseldorf table is to standardize child support decisions and specify. The table is supplemented by each supreme court’s supplementary child support standards(Unterhaltsleitlinien). The table consists of four parts: child care(Kindesunterhalt), partner care(Ehegatenunterhalt), calculation in case of deficiency(Mangelfallberechnung), relative care(Verwandtenunterhalt)(Kim et al., 2011).

2) According to the federal government of Germany, a sole-parent's objective

minimum support cost corresponds with child age and monthly base child support. Followings are rates of the minimum support cost.

- ① up to child age 6(the first age level): 87 percent of doubled child deduction
- ② child age 7 to 12(the second age level): 100 percent of doubled child deduction
- ③ child age 13 or older(the third age level): 117percent of doubled child deduction

The minimum living cost is bi-annually determined by the federal government under the law principle of total housing and heating expenses in social security law. Linkage between child support calculation and income tax law means that child support law is adjusted to income tax law and social law. In addition, calculation of child support became to be more convenient in the courts³⁾.

The Dusseldorf table(Düsseldorfer Tabelle) provides the standard of child support calculation. However, the Dusseldorf table is not legally statutory. The table is based on two children who are eligible for social security benefit by does not consider the order of child birth.

minimum living expense is €7,896 and the tax deduction(der steuerliche Freibetrag) for a sole-parent is €8,004 and slightly higher than the minimum living expense. Minimum living expense of a couple is €13,272 and tax deduction for a couple is €16,009. The objective minimum living expense of a child is €4,272, the tax deduction for a child is €4,368.

3) <http://www.t-anwaelte.de/Unterhaltsrecht.324.0.html>, Reform des Unterhaltsrechts 2008 bei: Treutler Rechtsanwälte, Regensburg

〈Table 4-1〉 Dusseldorf table

(unit: €,%)

Net income of a custody parent (Nettoeinkommen des Barunterhaltspflichtigen)		Child age level (Altersstufen in Jahren) (Bürgerliches Gesetzbuch, BGB)				Rate	Adjusted amount of child support (Bedarfskontrollbetrag)
		age 0~5 years	age 6~11 years	age 12~17 years	age 18 years or older		
1	up to 1,500	317	364	426	488	100	770/950
2	1,501~1,900	333	383	448	513	105	1,050
3	1,901~2,300	349	401	469	537	110	1,150
4	2,301~2,700	365	419	490	562	115	1,250
5	2,701~3,100	381	437	512	586	120	1,350
6	3,101~3,500	406	466	546	625	128	1,450
7	3,501~3,900	432	496	580	664	136	1,550
8	3,901~4,300	457	525	614	703	144	1,650
9	4,301~4,700	482	554	648	742	152	1,750
10	4,701~5,100	508	583	682	781	160	1,850

from €5,101, child support depends on cases.

Data: Oberlandesgerichte Düsseldorf , Düsseldorf Tabelle, 2011.

2) Child Support enforcement system in Germany

In 1976, the family court(Familiengericht) was established by the revision of the Marriage Law. The youth office(Jugendamt) is a government agency which is in charge of child welfare affairs. Also, the youth office is a part of local governments' administration system. The child and youth welfare law regulates that local governments with certain size should establish the youth office. The only difference of states' youth offices and local governments' youth offices are the size of jurisdiction. Organization and mission of the youth office is stipulated in the child and youth welfare law(Kinder- und Jugendhilfe Gesetz, KJHG).

The family courts and the youth office cooperate to protect

children when child welfare is threaten. Without one party's cooperation, another party can not undertake its tasks. In this background, the family courts and the youth office formulate 'responsible community'.

In Germany, there is a 'legal guardian' system to enforce the courts decision on child support. According to the Civil Law section 1712, a custody parent can apply for free legal guardian service. Then, the youth office act as legal guardian and undertake tasks to request child support. The youth office as legal guardian persuade a non-custody parent to voluntarily pay child support. Also, when it is necessary, the youth office can fill lawsuit instead of the children. Furthermore, when a custody parent wants, the youth office subrogate enforcement.

In Germany, advanced payment on child support was implemented only in Hamburg. Then, in 1979 'Advanced Payment Law'(Unterhaltsvorschussgesetz, UVG) was enacted and the policy was implemented nationwide on January 1, 1980. The purpose of the law is to prevent economic hardship of custody parents and children in case non-custody parents are not responsible for child support duty or economically unavailable. When a custody parent is supported by advanced payment, a custody parent's receivable is transferred to the government.

Advanced payment on child support is conducted by the youth office(Jugendamt). The youth office owns the department of advanced payment support. When a non-custody parent does not obey child support duty and a custody parent wants to be supported by advanced payment, a custody parent has to apply to the youth office with written request forms. If a custody parent

does not agree with the youth office's decision on advanced payment, he or she can appeal. Moreover, the custody parent can sue in the Administration Courts(Verwaltungsgericht).

Advanced payment do not lighten non-custody parent's responsibility for child support. Rather, the non-custody parents are immediately noticed as the custody parent requested advanced payment. In this circumstances, the non-custody parent has to provide information about income and property. Then, the youth office calculate an amount of child support the non-custody parent would pay.

Advanced payment can be provided up to 72 months. Eligible conditions of applying for advanced payment are: child age under 12 years old, having registered address in Germany, living with one party of his or her parents, not being supported by a non-custody parent or supported part of child support or irregularly.

When child support is not paid on time, immediate enforcement is available with 'Enforcement Certification'(Tite l)⁴⁾. When a non-custody parent denied to pay child support occurred, give up or refuse to work, do not provide natural care(Naturalunterhalt)⁵⁾, legal punishment would be considered. Available punishments are prison sentence(Freiheitsstrafe) and monetary penalty(Geldstrafe).

4) Enforcement certificate(titel) is written form of agreements on child support debt enforcement(Schuldanerkenntnis) as a kind of right of enforcement. The certificate is related to non-custodial parents' a wide range of duty but a custodial parents can benefit from the certificate.

5) Natural care means parents provide followings; housing fee, heating or telephone, clothing, care service for children with disabilities.

2. Child Support Scheme in the United Kingdom

1) Calculation of Child Support in the UK

In the UK, the term ‘Child Maintenance⁶⁾’ means regular, reliable financial support towards the child’s everyday living costs. The parents who do not have main day-to-day care(the non-resident parent) pays child maintenance to the parent who does have main day-to-day care(the parent with care). A person can ask the Child Support Agency for an arrangement as long as the child is under 16 (or under 19 and either in full-time education). In some cases, this person can be a grandparent or guardian(Child Support Agency, 2010a).

Child Maintenance Options(CMO) provides a child support guideline for the parents who want voluntary child support agreement. This guideline helps child support agreement by providing classified factors that might be included in child rearing.

Based on the Child Maintenance and Other Payment Act 2008, new child maintenance guideline which calculate child maintenance applying ‘gross income’. This will replace the former calculation way to apply ‘net weekly income’ to ‘gross weekly income’.

The existing four ways to work out child maintenance will not be changed but rates will be changed according to applying

6) In the UK, the term ‘child maintenance’ is used as same meaning as ‘child support’ among other English speaking countries in this study(Australia, New Zealand, and the US).

gross weekly income. When the non-resident parent has a gross income of more than £800, the CSA use the new basic rate <Table 4-2>, income over £800 is to be worked out by the rate on <Table 4-3>. Then, the final amount of child support is worked out by sums of the two calculations.

<Table 4-2> New Basic Rate

- | |
|--|
| <ul style="list-style-type: none"> • 1 Child needing child maintenance: 12 percent of net weekly income • 2 Children needing child maintenance: 16 percent of net weekly income • 3 Children needing child maintenance: 19 percent of net weekly income |
|--|

<Table 4-3> Rate for working out weekly gross income over £800

- | |
|---|
| <ul style="list-style-type: none"> • 1 Child needing child maintenance: 9 percent of net weekly income • 2 Children needing child maintenance: 12 percent of net weekly income • 3 Children needing child maintenance: 15 percent of net weekly income |
|---|

If the child stays overnight with the non-resident parent on average at least one night a week(at least 52 nights per year), this is to be called ‘shared care’. In these cases, the CSA can reduce the amount of child maintenance that the non-resident parent has to pay.

If the non-resident parent does not give the CSA the information need to work out child maintenance, and other organizations can't give the CSA it, the CSA can take other action to start getting child maintenance paid according to <table 4-20>.

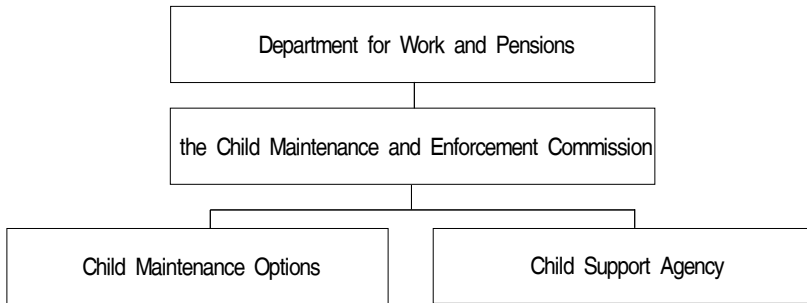
CSA offer Advanced Payment on Maintenance in certain circumstances. Advanced Payment on Maintenance is provided when child maintenance delay occurred by maladministration, out of normal processing, having to wait longer for their child

maintenance and so on.

2) Child Support enforcement system in the UK

The Child Maintenance and Enforcement Commission(C-MEC) is the Non-Departmental Public Body under Department for Work and Pensions with the responsibility for the child maintenance system established based on the Child Maintenance and Other Payments Act 2008.

[Figure 4-1] Child Support enforcement system in the UK



Child Maintenance Option(CMO) provides information and support on the different child maintenance options available and assist each parents to make the best choices in various child support agreement situations. Three child maintenance agreement options provided by CMO are followings; private agreement, arrangement using the CSA, and consent order(CSA, 2008a).

The CSA is an important enforcement system through child

support calculation and payment process. Being assisted by CMO, CSA help parents to decide specific child maintenance transition when parents could not reach to voluntary agreement. In other words, CSA support parents to calculate child maintenance, decide payment method and period. Also, CSA take child maintenance from non-resident parents and support the parents with care to receive child maintenance.

If a non-resident parent who has to pay child maintenance through CSA does not pay the right amount at the right time, CSA can take action to get any money owed to the parent with care. This includes if a non-resident parent have arranged child maintenance through CSA and the non-resident parent is required to pay the parent with care directly. CSA can take money direct from a non-resident parent's earnings if the non-resident parent is employed and is not already paying this way, take money direct from a non-resident parent's bank or building society account, and take action through the courts.

In the UK, the main role of the courts is consent order which can bring legal rights of child maintenance enforcement and deduction of unpaid or delayed child maintenance.

There are several ways to enforce child maintenance. First, bailiffs can take possession of a non-resident parent's belongings and sell them to get the money owed. The bailiffs can also add their charges to the debt. Second, the courts also can enter a liability order on the Register of Judgments, Orders and Fines. Credit reference agencies can use this register when setting someone's credit rating, which affects their ability to get finance, such as loans, mortgages and credit cards. It can also affect

someone's membership if they want to join a professional organization. Third, a county court can make a third-party debt order to tell an individual, or a business such as a bank, building society or the Post Office, to freeze money in an account in the non-resident parent's name on a given date. Once the money is frozen, the non-resident parent cannot use it without the court's permission. The county court can then order the individual or business to pay us the amount shown on the third-party debt order(Child Support Agency, 2010b).

[Figure 4-2] Process of Child Support enforcement in the UK



Source: Child Support Agency(2010a)

3. Child Support Scheme in Australia

1) Calculation of Child Support in Australia

In Australia, the term 'Child Support' means money transferred between divorced parents for the purpose of child care. Australia's child support scheme emphasizes divorced parents' co-responsibility to take care of their children by adoption of 'shared care' which reflect both parents' income and rate of

child care in consideration of child support.

Calculation of child support taken by following Child Support Formula invented by Department of Families, Housing, Community Services and Indigenous Affairs(FaHCSIA). Followings are features of Australia's child support guideline(The Ministerial Taskforce on Child Support, 2005).

- The use of a formula-based administrative system for the calculation of child support.
- The provision of a self-support component below which only a minimum rate of child support is payable.
- The principle that children should share in the standard of living of both parents with the consequence that child support levels depend on parental income.
- The system of being able to seek a change of assessment through a simple administrative process, if certain criteria are satisfied.
- Responsibility to pay child support based upon biological or legal parenthood.
- Assessment of child support based upon the parents' individual incomes, disregarding the incomes of new partners.
- The use of a formula-based administrative system for the calculation of child support.
- Collection and enforcement through the Child Support Agency (CSA) where the parents are unable to agree on their own arrangements for private transfers.

Child support is calculated by Basic formula. Basic formula

consists of Cost of children table which considers parents' income, child age, and number of children and Care and Cost percentages to apply shared care. Followings are steps of child support calculation(The Ministerial Taskforce on Child Support, 2005).

- Step 1: Ascertain the parents' adjusted taxable incomes (meaning taxable incomes with adjustments made to take account of negative gearing and other factors) based upon the most recently available tax assessment or such other information as is available.
- Step 2: Calculate the Child Support Income of each parent. This is equal to their adjusted taxable income less their self-support amount. If either parent has a new biological or adopted child, the self-support amount will be increased by the amount that the parent would have to pay in child support based upon his or her income if the child were living elsewhere.
- Step 3: Calculate the cost of the child or children using the combined Child Support Income of the two parents and applying the relevant amounts to child support formula. The resulting cost represents the amount that the parents would be likely to spend on the children from their private incomes if they were living together.
- Step 4: Apportion the costs of the child in accordance with the parents' respective capacity to pay, in proportion to their respective shares of combined Child Support Income.
- Step 5: Where there is regular contact with the non-resident parent (between 14 percent and 34 percent of the year), 24 percent of the costs of the child will be treated as incurred

in the non-resident parent' household. The non-resident parent' liability is any balance of their share of the costs of the child, after deduction of the amount they are assumed to be expending by providing contact. For amounts of care equal to or above 35 percent (that is, shared care), a percentage of the costs of the child will be treated as having been incurred by the parent with lesser care. When care is equal or near equal, the share will be 50 percent of the costs.

Australia's CSA offer 'Child Support Calculator' via CSA home-page(www.csa.gov.au) for general child support cases when a non-custody parent pays child support to a custody parent.

2) Child Support Enforcement in Australia

Australia's child support scheme is cooperated by two federal departments; Department of Families, Housing, Community Services and Indigenous Affairs(FaHCSIA) and Department of Human Services. Specifically, FaHCSIA develop child support policy and Department of Human Services carry out the policy through CSA.

When parents made a voluntary agreement, they can register agreed child support amount at CSA. Then, the parents can transfer child support privately or ask CSA to transfer. When voluntary agreement is not made, parents can ask CSA or other agencies to intervene to help child support calculation and transfer. The parents also can ask the courts to determine child support.

However, decision by the courts is not allowed unless child support agreement by CSA or voluntary agreement is not working(Commonwealth of Australia, 2009b).

4. Child Support Scheme in New Zealand

1) Child Support calculation in New Zealand

In New Zealand, the term ‘child support’ is defined as the money paid by paying parent who is not living with their children but who helps financially support them by paying a set amount in child support to custodian(Inland Revenue, 2010a).

In most cases, child support New Zealand calculated by four steps through ‘the Child Support Formula’. The Child Support Formula is to calculate how much ‘the paying parents’ might pay child support(Inland Revenue, 2010a).

First, CSA define the paying parents’ income from either the previous tax year or two years before the current tax year. The highest taxable income we use is based on 2.5 times the average New Zealand income.

The second step is deducting ‘living allowance’ from the income defined in the first step. The living allowance amount depends on the paying parent’s personal circumstances.

In the third step, ‘standard child support percentage’ is applied to the income deducted living allowance. In other words, the income minus living allowance is multiplied by the standard child support percentage. The standard child support percentage increases as the number of child added. If the paying parents

provides ‘shared care’, the percentage applied is differentiated.

The ‘shared care’ is a legal term from the Child Support Act 1991 and means that if a person who cares for a child for at least forty percent of nights(a hundred and forty six nights) of the child support year this will affect child support payments(Inland Revenue, 2010b).

In the fourth step, the amount from the step three is divided by twelve equal month and the final amount of child support that the paying parents might pay to Inland Revenue(IRD) is determined(Inland Revenue, 2010a).

In New Zealand’s child support scheme, there is a minimum amount of child support that needs to be paid even if the paying parent earns no income.

New Zealand’s child support scheme also has a regulation of child support exemptions. There are two types of the exemptions: ‘temporary exemptions’ and ‘permanent exemptions’ according to the paying parents’ circumstances(Inland Revenue, 2010a).

2) Child Support Enforcement System in New Zealand

The core agency of New Zealand’s child support enforcement is Inland Revenue(IRD). However, since the child support scheme is closely related to the Domestic Purpose Benefit(DPB) provided by Work and Income Center(WIC) under Ministry of Social Development(MSD), WIC needs to be explained in order to understand New Zealand’s child support scheme.

WIC provide financial support for child care. DPB is the

representative welfare benefit for sole-parent. DPB can be provided to sole parents who care children under eighteen years old. In 2011, the amount of DPB was \$326.82 per a week before tax. When a sole parent applies for DPB, WIC immediately share the information of the application with IRD and IRD ask DPB pensioner to apply for child support(Work and Income, 2011).

Inland Revenue Department(IRD) is in responsible for child support calculation and enforcement, based on 1991 Child Support Act and Child Support Reform. IRD operates Child Support Agency with about 520 staffs. IRD has the information about individual income which is the most fundamental information of child support calculation and rights of child support enforcement. Other than child support, IRD also has tax benefit programs to help families with children, such as Working for families Tax Credits.

There are three types of child support enforcement in New Zealand: enforcement by voluntary agreement, enforcement by IRD in case voluntary agreement is not made up, and court ordered child or domestic maintenance case.

When paying parents are not paying the child support on time, IRD can collect child support compulsorily. IRD can deduct child support from followings. IRD also can take legal action against paying parents(Inland Revenue, 2009a).

- Wages
- Accident Compensation Corporation payment⁷⁾

7) Accident Compensation Corporation is New Zealand's public enterprise which provides comprehensive, no-fault personal injury cover for all New

- Tax refunds
- Bank accounts
- From any other money that might be payable to you, such as trust account or superannuation payouts.

5. Child Support Scheme in the United States

1) Child Support calculation in the US

Child support in the US defined as Financial support paid by parents to help support a child or children of whom they do not have custody. Child support guidelines in the US were established with the Child Support Enforcement Amendment of 1984(Office of Child Support Enforcement, 2007). Federal law regulates that guidelines must be numerical formulas that, at a minimum, consider all of an obligor's income and provide for the child's health care needs. Also, support guidelines must provide rebuttable, presumptive amounts in any judicial or administrative proceeding involving the establishment of a child support order. Child support decision should be written for guideline amount would be unjust or inappropriate for his or her particular case.

Each state's child support guideline is different but basically there are three models of child support guidelines: Percentage-of-income Model, Income-shares Model, Delaware

Zealand residents and visitors to New Zealand.

Melson Formula(Office of Child Support Enforcement, 1994).

Provision of child support calculation is also different across fifty states. Some state provide both clear guideline and child support calculator via OCSE web sites(i.e. Wisconsin state) while other states only provide the calculator but not specific guidelines(i.e. Alaska state) or only provide those services to the clients of OCSE(i.e. Nevada State).

2) Child Support Enforcement System in the US

In the US, Federal Office of Child Support Enforcement(OCSE) is a main government agency for child support. OCSE is part of the Administration for Children and Families(ACF) within the Department of Health and Human Services(HHS).

The Child Support Enforcement(CSE) program's mission is to enhance the well-being of children by assuring that assistance in obtaining support, including financial and medical support, is available to children through locating parents, establishing paternity and support obligations, and enforcing those obligations.

The CSE program offers five services: location, paternity, obligation, enforcement, and distribution(Office of Child Support Enforcement, 2008). Obligation is to establish and maintain a fair, financial and medical support order. Under certain situations, the Internal Revenue Service may provide OCSE financial information about the parent's earned and unearned income, such as interest payments and unemployment compensation. Employers are required to report hiring people to the state, and the state then provides the information to the National Directory of New

Hires(NDNH), which is a part of the Federal Parent Locator Service(FPLS). The FPLS can provide income information from the NDNH and from states' quarterly wage records. CSE offices review child support orders at least every three years, or if there is a significant change of circumstances, if either parent requests such a review. Some states have a procedure for an automatic update(Office of Child Support Enforcement, 2008).

When child support is to be shared due to a non-custody parent's marriage and new families, the amount of support for the children may be reduced, but child support duty continued(Office of Child Support Enforcement, 2008).

A main objective of Enforcement is to make sure that child support payments are made regularly and in the correct amount. When non-custodial parents do not pay regularly, CSE can enforce child support. There are several ways of enforcement: state and Federal income tax offset, liens on real or personal property owned by the debtor, freezing of bank accounts, orders to withhold and deliver property to satisfy the debt, passport denial through Financial Institution Data Match(Office of Child Support Enforcement, 2008).

Distribution service is for receipt and disbursement of all payments. State Disbursement Units receive and send out payments for child support as quickly as possible. All states are required to distribute most payments within two days of their receipt. When two states are involved, each one must send payments out within two days(Office of Child Support Enforcement, 2008).

Each state's CSE is in charge of payment process, such as location,

enforcement, paternity, except for determining amount of payments responsibility(OECD, 2010). In the US, each state courts determine amount of child support based on each state's guideline.

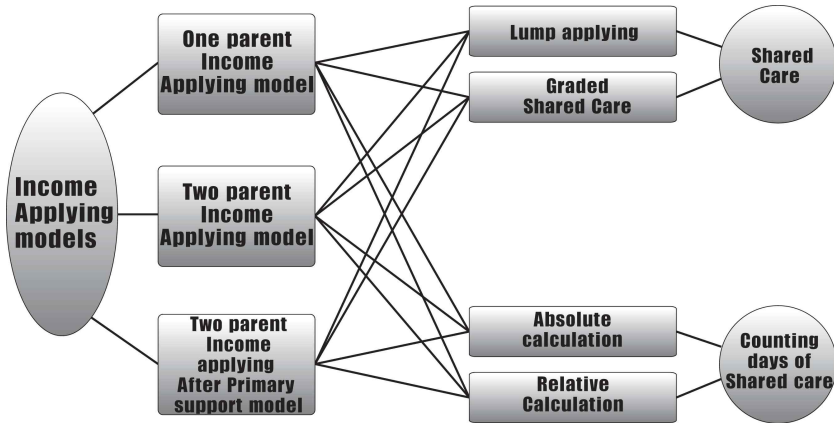
6. Implication of the Leading Countries' Child Support Schemes

This study provides implications from the study of child support schemes of Germany, the UK, Australia, New Zealand, and the US that have well-established guidelines of calculation and enforcement. Followings are main findings from the analyses of the countries' child support schemes.

First, it is obvious that child support calculation and enforcement scheme has to be established. The problems of children in divorced families might be understood due to lack of child care responsibility and social policy. Furthermore, if the divorced families become vulnerable and have to be socially supported, the society might not avoid to take burden of support those families. In order to forster 'responsible parenthood' and 'continuity of child care quality', child support scheme might be adopted.

Second, an accurate and unified child support guideline is needed. The child support guideline might consider income, and adopt shared care to seek scientific calculation. This is because, calculation of child support might be differentiated by many factors, such as considering income of two or one parents, shared care.

[Figure 4-3] Policy options for Child Support calculation



Third, in-depth analyses and keen observations are required to find out how to link child support scheme with family and social welfare policies.

Fourth, ‘shared care’ needs to be adopted to foster child care by both parents. Since shared care's positive points were shown by other countries’ cases, adoption of shared care might be considered.

Fifth, child support enforcement system should be established to maximize effects of child support scheme. The system might be formulated in public organizations. However, given that high service delivery dependency on private agencies, many policy options to adopt enforcement system with the private agencies might be discussed.

Sixth, accurate information about income and property should be ensured. Korea still have problems regarding to income and

property transparency. Also, high rates of self-employee also can be difficulties to child support enforcement.

Seventh, social agreement to determine child age of child support limit. It would be conflictual in Korea that usually support children over their underage periods.

Last but not least, the courts and administrative agency's relationship and roles might be clarified. For this, related agencies' positive participation and discussions are needed.



Chapter

05

Child Support Expenditure in Korea



Chapter 5

Child Support Expenditure in Korea

1. Child Support Responsibility

In a recent survey, as many as 49.6 percent of Koreans are found to think that child support should last until children finish college-level education. Furthermore, ‘until children get jobs’ accounted for 12.2 percent and ‘until they get married and establish families of their own’ for 23.1 percent. In sum, about 90 percent of Korean thought that responsibilities for child support should continue ‘at least until the child finishes college education.’(Kim et al., 2011).

〈Table 5-1〉 Responsibility level of Child Support

(unit: %)

Until highschool graduate	until college graduate	until get a job	until married	whenever
9.6%	49.6%	12.2%	23.1%	5.0%

Note: 0.5% means etc., never thought, don't know

Source: Seung Kwon Kim et al., *The 2009 National Survey on Fertility, Family Health and Welfare in Korea*, Korea Institute for Health & Social Affairs, 2009.

2. Actual Child Support Expenditure for an Individual Child

This study estimates the child support expenditure considering the characteristics of households with children by analyzing *The 2009 National Survey on Fertility, Family Health and Welfare*

in Korea(Korea Institute for Health & Social Affairs, 2009)⁸⁾. The survey was given to a nationally representative sample of 18,000 families with children either living at home or living elsewhere with support from their parents.

1) Estimation of Child Support expenditure for an individual child by child age

In order to estimate the child support expenditure by child age, this study categorizes children into infants, preschoolers, primary school students, middle school students, high school students, and college students. This is because, categorizing by each age was limited due to lack of data sufficiency. The older children show the higher monthly child support expenditure than their younger counterparts.

〈Table 5-2〉 Child Support expenditure for an individual child by child age
(unit: 10,000won, person)

	all age	age 0~2	age 3~5	age 6~11	age 12~14	age 15~17	age older than 18
total	100.9	68.5	81.6	87.5	98.2	115.4	141.9
(n of subjects)	(11,495)	(1,347)	(1,227)	(3,176)	(1,791)	(1,778)	(2,176)

8) This is because the Center Committee of Social Security has limitations to analyze household and child characteristics due to insufficient sample number.

2) Child Support expenditure for an individual child by household income

As household income increased, monthly child support expenditure also increased.

〈Table 5-3〉 Child Support expenditure for an individual child by household income

(unit: 10,000won, person)

	all income level	less than 990,000 won	1,000,000 ~less than 1,990,000 won	2,000,000 ~less than 2,990,000 won	3,000,000 ~less than 3,990,000 won	4,000,000 ~less than 4,990,000 won	more than 5,000,000 won
total	92.9	55.1	53.8	72.8	93.1	112.4	161.4
(n of subjects)	(9,957)	(318)	(1,366)	(2,545)	(2,769)	(1,777)	(1,182)

3) Child Support expenditure for an individual child by number of children

The number of children in this study was calculated regardless of whether children live together or not. Calculation of child support expenditure by number of children is necessary in order for verifying child expenditure decreasing as number of child increasing. Also, this enables to determine how much child support expenditure decreased when the number of child diminished.

The result shows that the more child support expenditure is spent as the fewer number of children live together. This might be understood that as the number of children grows, the quality of child care declines and the expenditure would be saved by common child expenditure.

〈Table 5-4〉 Child Support expenditure for an individual child by number of children
(unit: 10,000won, person)

	all numbers	1 child	2 children	3 children	4 children	5 children
total	100.9	115.2	100.6	84.0	66.6	40.8
(number of subjects)	(11,496)	(2,514)	(7,116)	(1,731)	(125)	(10)

4) Child Support expenditure for an individual child by region

Regional estimation of the child support expenditure is needed because living expenses are differentiated across regions and this might affect child support cost for the same level of child care. Child support expenditure in city region(1,032,000won) was about 18 percent(875,000won) higher than rural areas' child support.

〈Table 5-5〉 Child Support expenditure for an individual child by region
(unit: 10,000won, person)

	all region	City	rural area
total	100.9	103.2	87.5
(n of subjects)	(11,496)	(9,811)	(1,685)

5) Child Support expenditure for an individual child by household income, number of children, and region

This study analyzes differences of child support expenditure according to household income, number of children, and region to find whether it is necessary to consider different child support guidelines with such factors or not. As household income higher and child age growing up, monthly average child expenditure was correspondently increasing.

〈Table 5-6〉 Child Support expenditure for an individual child by household income and child age

(unit: 10,000won)

Household income level	Child age					
	0~2	3~5	6~11	12~14	15~17	18 or older than 18
less than 99	44.4	42.9	43.5	47.2	53.7	89.3
100~199	44.3	47.3	46.3	48.9	56.5	86.3
200~299	58.6	64.3	66.7	72.7	78.8	106.0
300~399	71.4	84.5	84.5	86.1	98.3	128.1
400~499	89.0	100.4	97.3	106.4	119.5	142.6
over 500	107.9	134.2	138.4	155.3	178.8	196.8

Considering number of children and child age, this study examines if child support expenditure is affected by such factors. In general, as the more number of children and higher child age, monthly average child support expenditure was growing up.

〈Table 5-7〉 Child Support expenditure for an individual child number of children and child age

(unit: 10,000won)

number of children	child age					
	0~2	3~5	6~11	12~14	15~17	18 or older than 18
1	79.6	102.8	106.3	105.4	118.9	145.2
2	63.3	80.4	88.2	102.0	118.2	140.5
3	52.2	66.9	76.0	79.7	102.0	134.0
4	35.0	48.8	52.0	86.5	77.3	167.2*
5	35.6*	27.7*	40.2*	77.6*	-	-

Note: * is statistically insignificant due to n of subject is less than 10.

This study also analyzes monthly child support expenditure differences by region and child age. The result shows that the child support cost in city area was higher than rural area, regardless of child age. However, the cost difference by household income and number of child was insignificant.

〈Table 5-8〉 Child Support expenditure for an individual by region and child age

(unit: 10,000won)

Region	Child age					
	0~2	3~5	6~11	12~14	15~17	18 or older than 18
City	69.6	82.7	89.7	101.7	118.5	143.3
Rural area	62.0	73.7	75.5	77.9	94.9	133.5

6) Child Support expenditure for an individual child by number of children, household income, and child age

Lastly, this study examines how child support expenditure might be differentiated by number of children, household income, and child age. Among the same child age and household income categories, monthly child support expenditure were different by number of children. In other words, even in same conditions of income and child age, child support expenditure decreased as number of child increased.

〈Table 5-9〉 Child Support expenditure for an individual by child age, household income, and number of children

(unit: 10,000won)

number of children	Household income	child age					
		0~2	3~5	6~11	12~14	15~17	18 or older
1	less than 99	44.1	34.0*	40.7	41.2	68.2	83.9
	100~199	53.6	57.9	62.4	64.8	65.8	97.1
	200~299	68.5	80.3	85.7	94.2	95.9	112.4
	300~399	83.3	110.9	110.5	109.0	117.0	142.4
	400~499	109.6	126.8	130.7	160.5	137.0	155.5
	more than 500	120.2	169.9	176.4	180.1	187.9	202.0
2	less than 99	45.6*	47.1	49.7	54.7	43.4	92.5
	100~199	38.8	47.4	46.6	47.0	52.1	72.6
	200~299	53.6	64.7	66.8	71.4	77.1	99.3
	300~399	68.4	81.2	84.6	87.3	98.6	122.4
	400~499	82.6	99.0	98.2	107.3	121.3	140.9
	more than 500	100.4	133.4	140.4	160.2	188.0	196.8
3	less than 99	44.3*	30.3*	32.2	35.6	55.1*	150.0*
	100~199	30.4	36.2	36.7	40.5	54.0	85.5
	200~299	42.0	51.2	53.7	59.2	63.5	106.0
	300~399	49.6	65.1	68.0	75.2	85.8	92.1
	400~499	62.0	77.2	79.8	89.6	100.2	108.0
	more than 500	97.7*	124.8	121.1	133.6	155.5	177.2

Note: subjects of this analysis are households with three children only.

3. Implications of Child Support Expenditure in Korea

The implications from the analysis of child support expenditure are followings.

First, calculation of divorced families' child support should consider with standard of 'until child(ren) finished college level education'. However, in case a state provides child support, the subject of child support could be children until graduate highschool.

Second, child support would be differently calculated based on changeable four factors: child age, income and property, number of children, and region.

Third, ensuring survey data is required to precisely calculate child support, considering various factors of households.

Fourth, provisions such as forster care are needed for special circumstances that both parents do not take a custody(i.e. grandparents and grandchild family).



Chapter

06

Guideline for Adoption of Child Support Scheme in Korea



Chapter 6

Guideline for Adoption of Child Support Scheme in Korea

1. Basic Principles

This study provides basic principles for adoption of child support scheme, dividing by two sub principles: principles for child support calculation and enforcement system. Considering advanced researches, trends of leading countries' child support schemes, and the result of child support cost analysis, principles for child support calculation are provided as followings.

First of all, the term 'child support' might mean all kinds of expenditure provided to child(ren), including cash, in kind transfers, and services. In kind transfers and services would be converted into cash. Then, the amount will be added to cash expenditure to calculate total amount of child support.

Second, child support calculation would be based on 'Estimated Household Income'(income plus conversion of property into income) method which considers both parents' income and property.

Third, child support calculation is determined considering children's characteristics, such as child age, and region.

Fourth, parents' duty to other children can not be ignored by considering custody or non-custody parents' children to be cared.

Fifth, 'shared care rate' would be adopted in order to forster

shared care.

Sixth, child support might be provided until children finished college level education. However, in case of a government provides child support, the subject of child support could be underage children until graduate highschool.

Seventh, in any circumstances, the level of child support should be at least more than a minimum living standard for an individual child.

This study also suggests three basic principles of establishment of child support enforcement system based on advanced researches, policy trends of other countries, and analysis of fundamental data about child support cost.

First, enforcement system provides calculator for child support estimation via online to encourage voluntary agreement.

Second, regardless of marital status(divorce, separation, single mothers, and so on), parents are responsible for child support. However, in special circumstances like economical hardship, a government is responsible for taking care of the children.

Third, the cost of establishment of ‘child support scheme’ would be minimized by utilizing existing infrastructure.

2. Formulas for Child Support Calculation

First, this study offers ‘Estimated Household Income’(both parents’ income plus conversion of property into income) method as a basic model for adoption of child support calculation in Korea. This model is basically based on ‘both parents’ income applying model’ among the leading countries’ child support guideline. But this added property into the model in order to apply property like

real estate or financial asset in calculation. The reason for why the property added is that property is an important factor to determine one's income capacity in Korea. In other words, this method determines an amount of child support considering both parents' all income and property converted into income. Pros of this method is to socially enlighten people that child support is parents' primary duty and provide children same level of child support after their parents' separations. In addition, this model enables the child support determination considering both parents' income and property.

Determination of 'Estimated Household Income'(income plus conversion of property into income) is the same way as National Basic Livelihood Security's calculation method⁹⁾.

Calculation of 'Estimated Household Income'(income plus conversion of property into income)=evaluated income+'Monthly Tariff Income'(conversion amount of property to income)

'Evaluated income'=net income-household expenditure-earned income deduction

'Monthly Tariff Income'(Conversion amount of property into income)=(property-permanent property-debt)×income convert rate(0.42 percent)

※ In case evaluated income or monthly tariff income(conversion amount of property into income) is a negative number(-), it is treated as zero(Ministry of

9) The reason of this study adopts the method from National Basic Livelihood Security is to calculate child support in the same manner of National Social Security policy.

Health and Welfare, 2011).

There are five different categories of ‘Estimated Household Income’(income plus conversion of property). The first category is the lowest one, income under 2,500,000 won which is the ‘minimum living cost for three family household’ of 2012 minimum living standard of Social Security. The third category which is the middle one based on Statistic Korea’s(KOSTAT) ‘Household trend of 2010’ data. This median level income category was considered as followings: first, among average monthly household income levels, sum of average income(2,348,600won) and business income (804,800won) is 3,153,400won. Second, assuming that the amount of sum is average household income, multiply 3,153,400won by two to get Estimated Household Income of both parents. Third, considering 6,300,000won is Estimated Household Income of both parents, setting the middle category’s range as more than 5,000,000won to less than 7,500,000won. In this manner, five levels of ‘Estimated Household Income’ are divided by a difference of 2,500,000won. The highest amount applied into child support calculation is set as 12,500,000 and over the highest amount is not applied.

〈Table 6-1〉 Categories of both parents’ Estimated Household Income

(unit: won)

Sum of both parents’ Estimated Household Income					
Categories	0-less than 2,500,000 won	2,500,000 -less than 5,000,000won	5,000,000 -less than 7,500,000won	7,500,000 -less than 10,000,000won	10,000,000 -less than 12,500,000won

Second, child support guideline strengthens child support duty for every children and calculate child support considering that an amount of child cost decreases as the number of children increase. For instance, assume that both divorced parents have three children to take care. Among the children, one child is not living with the parents and two children are living with them. In this case, child support should be calculated separately for the one child not living with the parents and two children with the parents. Then, those two different amounts of child support will be summed up. Reason being, child support expenditure is different in each case of one child, two children, and three children.

<Table 6-2> Number of children to care considering whether living with parents or not

	Number of children to be cared by both parents								
	1	1	2	2	2	3	3	3	3
total	1	1	2	2	2	3	3	3	3
children living with	0	1	0	1	2	0	1	2	3
children not living with	1	0	2	1	0	3	2	1	0

The following <table 6-3> shows the amounts of child support applying national average child support cost per a month. It would be noted that the amounts are total child support amounts, not for each child which are determined whether children living with parents or not. Assuming that children to care are living together, child support for two children is estimated 1.8 times of child support for one child, child support for three children is 2.2 times of the cost of one child.

〈Table 6-3〉 Average monthly Child Support by number of children, 2009

	Number of Children to be cared by both parents		
	1	2	3
Children living with(not living with) Child support(10,000won)	115.2	201.2	252.0
Multiple number of child support for one child	1	1.8	2.2

Third, child support calculation should consider increases of costs as children growing up. It could be ideal to calculate child support according to each child age. However, because of insufficiency of survey data, this study categorizes child age into four ranges: 0~5 years old, 6~11 years old, 12~17 years old, and 18 or older than 18. Following <table 6-4> provides average child support costs per a month applying national average.

〈Table 6-4〉 Average Child Support cost per month by child age and age groups, 2009

	Child age ranges			
Child age groups	0-5 years old	6-11 years old	12-17 years old	18 or older than 18 years old
	infant and toddler	Primary students	Middle and High school students	College level students
Child cost for a child(10,000won)	75.05	87.5	106.8	141.9
Multiple number of child support for one child)	1	1.2	1.4	1.9

Fourth, child support guideline is differentiated by regions where the children live. The child support cost for a child in city was 2 percent higher than the national average, while child support cost for rural area was 13 percent lower than the national average.

<Table 6-5> Average Child Support cost per month by region, 2009

	Region		
	National average	City	Rural area
Child cost for a child(10,000won)	100.9	103.2	87.5
Multiple number of child support for one child	1	1.02	0.87

Following <table 6-6> and <table 6-7> show child support guideline applying ‘Estimated Household Income’(income plus conversion of property), the number of children, child age. In the guideline, child support for children in city area is to be added additional 2 percent while child support for children in rural area is to be deducted 13 percent.

The <table 6-6> shows child support guideline for infant and toddlers. Except for both parents’ income is less than 2,500,000won, the minimum child support rate is 22 percent(550,000won per 2,500,000won) and the maximum is 43.2 percent(5400,000won per 12,500,000won) of both parents’ ‘Estimated Household Income’(income plus conversion of property).

<Table 6-6> Child Support guideline for child age 0~5 years old

(unit: won, %)

Number of children	Both parents' Estimated Household Income				
	0-less than 2,500,000 won	2,500,000~ less than 5,000,000 won	5,000,000~ less than 7,500,000 won	7,500,000~ less than 10,000,000 won	10,000,000~ less than 12,500,000 won
1	Minimum expense for a child	550,000~less than 1,100,000 won(22%)	1,100,000~ less than 1,600,000 (more than 5,000,000won: 20%)	1,600,000~ less than 2,050,000 won (more than 7,500,000won: 18%)	2,050,000~ less than 2,450,000won (more than 10,000,000won: 16%)
2	Minimum expense for two children	1,000,000~ less than 2,000,000 (40%)	2,000,000~ less than 2,900,000won (more than 5,000,000won: 36%)	2,900,000~ less than 3,700,000won (more than 7,500,000won: 32%)	3,070,000~ less than 4,400,000 (more than 10,000,000won: 16%)
3	Minimum expense for three children	1,200,000~ less than 2,400,000won (48%)	2,400,000~ less than 3,500,000 won (more than 5,000,000won: 44%)	3,500,000~ less than 4,500,000 (more than 7,500,000won: 40%)	4,500,000~ less than 5,400,000won (more than 10,000,000won: 16%)

The <table 6-7> provides child support guideline for child age 6~11 years old. Except for both parents' income is less than 2,500,000won, the minimum child support rate is 26 percent(650,000won per 2,500,000won) and the maximum rate is 52 percent(6,500,000won per 12,500,000won) of both parents' 'Estimated household Income'(income plus conversion of property).

〈Table 6-7〉 Child Support guideline for child age 6~11 years old

(unit: won, %)

Number of children	Both parents' Estimated Household Income				
	0-less than 2,500,000 won	2,500,000-less than 5,000,000 won	5,000,000-less than 7,500,000 won	7,500,000-less than 10,000,000 won	10,000,000-less than 12,500,000 won
1	Minimum expense for a child	650,000-less than 1,300,000won (26%)	1,300,000-less than 1,900,000 (more than 5,000,000won: 24%)	1,900,000-less than 2,450,000 (more than 7,500,000won: 22%)	2,450,000-less than 2,950,000 (more than 10,000,000won: 20%)
2	Minimum expense for two children	1,200,000-less than 2,400,000won (48%)	2,400,000-less than 3,475,000 (more than 5,000,000won: 43%)	3,475,000-less than 4,425,000 (more than 7,500,000won: 38%)	4,425,000-less than 5,250,000won (more than 10,000,000won: 33%)
3	Minimum expense for three children	1,450,000-less than 2,900,000won (58%)	2,900,000-less than 4,225,000 (more than 5,000,000won: 53%)	4,225,000-less than 5,425,000 (more than 7,500,000won: 48%)	5,425,000-less than 6,500,000won (more than 10,000,000won: 43%)

The following <table 6-8> shows child support guideline for child age 12~17 years old. Except for both parents' income is less than 2,500,000won, the minimum child support rate is 31 percent(775,000won per 2,500,000won) and the maximum is 52 percent(7,125,000won per 12,500,000won) of both parents' 'Estimated Household Income'(income plus conversion of property).

〈Table 6-8〉 Child Support guideline for child age 12~17 years old

(unit: won, %)

Number of children	Both parents' Estimated Household Income				
	0~less than 2,500,000 won	2,500,000~less than 5,000,000 won	5,000,000~less than 7,500,000 won	7,500,000~less than 10,000,000 won	10,000,000~less than 12,500,000 won
1	Minimum expense for a child	775,000~less than 1,450,000won (31%)	1,450,000~less than 2,150,000won (more than 5,000,000won: 28%)	2,150,000~less than 2,775,000won (more than 7,500,000won: 25%)	2,775,000~less than 3,325,000won (more than 10,000,000won: 22%)
2	Minimum expense for two children	1,400,000~less than 2,800,000won (56%)	2,800,000~less than 4,050,000won (more than 5,000,000won: 50%)	4,050,000~less than 5,150,000won (more than 7,500,000won: 44%)	5,150,000~less than 6,100,000won (more than 10,000,000won: 38%)
3	Minimum expense for three children	1,675,000~ less than 3,350,000won (67%)	3,350,000~less than 4,900,000won (more than 5,000,000won: 62%)	4,900,000~less than 6,075,000won (more than 7,500,000won: 47%)	6,075,000~less than 7,125,000won (more than 10,000,000won: 42%)

The <table 6-9> provides child support guideline for child age 18 years old or older than 18. Except for both parents' income is less than 2,500,000won, the minimum child support rate is 46 percent(1050,000won per 2,500,000won) and the maximum rate is 82.6 percent(6500,000won per 12,500,000won) of both parents' 'Estimated Household Income'(income plus conversion of property).

〈Table 6-9〉 Child Support guideline for child age 18 years old and older

(unit: won, %)

Number of children	Both parents' Estimated Household Income				
	0-less than 2,500,000 won	2,500,000-less than 5,000,000 won	5,000,000-less than 7,500,000 won	7,500,000-less than 10,000,000 won	10,000,000-less than 12,500,000 won
1	Minimum expense for a child	1,050,000-less than 2,100,000 won (42%)	2,100,000-less than 3,050,000 won (more than 5,000,000won: 38%)	3,050,000-less than 3,900,000 won (more than 7,500,000won: 34%)	3,900,000-less than 4,650,000 won (more than 10,000,000won: 30%)
2	Minimum expense for two children	1,900,000-less than 3,800,000 won (76%)	3,800,000-less than 5,500,000 won (more than 5,000,000won: 68%)	5,500,000-less than 7,000,000 won (more than 7,500,000won: 60%)	7,000,000-less than 8,300,000 won (more than 10,000,000won: 52%)
3	Minimum expense for three children	2,275,000-less than 4,550,000 won (91%)	4,550,000~6,650,000won (more than 5,000,000won: 84%)	6,650,000-less than 8,575,000 won (more than 7,500,000won: 77%)	8,575,000-less than 1,032,5000 won (more than 10,000,000won: 70%)

Fifth, considering shared care, this study suggests to adopt 'Graded shared care method' for applying shared care into child support calculation and 'Relative calculation method' for counting days shared care offered. Among leading countries, there are two different ways for shared care calculation and counting days. When it comes to shared care calculation into child support, there are 'Lump applying method' and 'Graded shared care'. For calculation days, there are 'Absolute calculation' and 'Relative calculation'¹⁰⁾. The reason to choose 'Graded shared care' and

10) For shared care calculation, 'Absolute calculation' has a positive point that applying

‘Relative calculation’ is to precisely consider shared care and reduce disputes. Also, those method might promote parents to provide various child care means other than money, such as emotional and qualitative supports.

To be specific, ‘Graded shared care’ method is categorizing the days offered shared care into level of shared care. As the days of one parent offered shared care increases, the parent's child support amounts are deducted. The following <table 6-10> shows the guideline of ‘Graded shared care’.

<Table 6-10> Child Support guideline applied ‘Graded shared care’

(unit: %)

Rate of shared care per year	Child support deduction rate applying shared care
less than 14%(52 days)	null
more than 14%(52 days)-less than 35% (128 days)	24%
more than 35%(128 days)-less than 48% (175 days)	25~48%(25%+ 0.5% for each percent over 25%)
more than 48%(175 days)- less than 50% (182 days)	50%

Calculation of child support follows four steps below:

- Step 1: Define the sum of both parents’ ‘Estimated Household Income’(income plus conversion of property)
- Step 2: Calculate total amount of child support that both

of shared care into calculation would be clear and simple. But the method are likely to ignore shared care over certain days(140 days); ‘Graded shared care’ enable child support calculation to reflect specific shared care rate. A expected flaw of this method is that non-custody parents might abuse this scheme with providing the minimum shared care(52 days) for getting child support deduction(Kim et al., 2011).

parents might pay by applying number of child, child age, region weight into both parents' 'Estimated Household Income'(income plus conversion of property(which defined in the step 1)

- Step 3: Determine each parent's child support rate from calculation of Estimated Household Income division(income plus conversion of property by each parent's income)
- Step 4: Decide the final amount of child support for each parent by applying the child support rate from Step 3 into the total amount of child support from the step 2

3. Child Support Enforcement System

The core issue of child support enforcement is “How each party transfers child support to each other?” The studies of leading countries' child support enforcement system show that there are various ways of enforcement and different roles of governments. Based on the analysis of child support scheme among four leading countries, ways of child support transfer might be categorized in four different models. There are three different models: “Each party transfer model”, “Pre providing-Post charge model”, and “Pre charge-Post providing” model. “Pre charge-Post providing” is specified into two sub models: “the courts-agency separation model” and “agency leading model”¹¹⁾.

11) 'The courts-agency separation model; Pre charge-Post providing model' might have a pros that the courts can only focus on child support calculation while agencies

This study provides following suggestions for establishment of child support enforcement system in Korea.

First, the study suggests to adopt “Pre charge-Post providing model”. This is because “Pre providing-Post charge model” might cause excessive national expenditure, a trend of irresponsible parenthood, and moral hazard.

Second, under this model, the study proposes to adopt ‘The courts-agency separation model’ in short-term but also suggests adoption of “agency leading model” in long-term. This is because, immediate adoption of “Agency leading model” might cause excessive human and material resource costs for expansion of the agency. In addition, lack of professional manpower in initial stages might bring hardships in policy adoption.

focusing on enforcement procedure. However, the model might discourage voluntary agreement and shared care due to conflict lawsuit process, administrative cost in the courts and agency operating costs would be occurred. ‘Another model: Agency leading model’ might has a positive effect on encouraging voluntary agreement by minimizing the courts’ intervention. In addition, this model enable divorced couples to deal with whole procedures regarding to child support issues in one system. However, high agency operating cost and heavy administrative burdens are expected because one agency should deal with every single procedure of child support decision and enforcement(Kim et al., 2011).



Chapter

07

Conclusion



Chapter 7

Conclusion

It is obvious that establishment of child support scheme is required to ensure welfare and development of children of divorced families. In Korea, where many divorce cases occurred and underage children from divorced families arise one hundred thousand per year, the child support scheme should be established as soon as possible. Particularly, Korea that claiming the welfare state, emphasizing children's right, and appreciating children as the growth engines in the future, policy to support children from divorced families might be established as quickly as possible.

In order for precise child support calculation, regular and valid survey on the child Support expenditure might be conducted. Suggestions for the surveys are followings.

First, (a tentative title) “National survey on child support expenditure” might be enacted. For the enactment, the law would be included in “Healthy Family Law” or “Sole parents support Law”, but it would be more proper to enact new law (a tentative title) “Child Support Law” and the regulations about ‘National survey on child support expenditure’ to be under the new law.

Second, (a tentative title) “National survey on child support expenditure” might be taken regularly. Most of enacted national surveys are conducted by three years or five years periods. Thus, (a tentative title) “National survey on child Support expenditure” might be proper to be taken by a cycle of three years. If it is not

plausible, cycle of five years can be considered. Calculation of child support other than survey years would consider inflation rate.

Third, the survey data might be based on more than 15,000 national sample of children. To ensure more than 15,000 children, it is necessary to conduct survey on more than 20,000 households. The sample size is important to analyze region, household income and property, child age, number of children, disability and other feature to consider in child support calculation.

In order to implement the concept of child support and guideline as the results of this study, follow-up research is required. Future researches might study following topics.

First, study of establishment of web-based child support calculator is required. The child support calculator would be up-loaded at the home-pages of the Office of Court Administration, the Family Courts, and Ministry of Gender and Families to support voluntary child support agreement.

Second, in-depth study of relationship among child support scheme and other welfare policies' is needed. The study will help the adoption of child support scheme to avoid collisions with other policies but promote cooperations among related policies.

Third, a pilot study of 'Pre charge, post providing' is also required in order to stable policy implementation. Specifically, studies of sub models are required. The study of 'The courts-agency separation model' is important for short-term policy adoption. Also, another study for 'Agency leading model' is necessary for long-term child support scheme establishment.

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