

Detention in minor offence proceedings and the right to appeal: A human rights assessment under international standards

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Abstract- This article examines the use of detention sanctions and the effectiveness of the right to appeal in minor offence proceedings in Mongolia from the perspective of international human rights standards. The analysis draws on statistical data, observational findings, and interview evidence from the 24th report of the National Human Rights Commission of Mongolia, complemented by data from judicial and enforcement institutions, as well as comparative insights from Germany, Japan, the United States, and Russia. The findings reveal a significant gap between the formal recognition of the right to appeal and its practical realization. Although appellate review leads to the modification or annulment of a proportion of first-instance decisions, the overall rate of appeals remains extremely low. This indicates that the right to appeal, while legally guaranteed, is not effectively accessible in practice. Key factors limiting its exercise include the widespread use of short-term detention sanctions, restricted access to legal assistance, and insufficient awareness of procedural rights. Comparative analysis demonstrates that international trends increasingly favor limiting custodial sanctions in minor offence proceedings, promoting alternative measures, and strengthening procedural safeguards to ensure effective appellate review. Against this background, the study argues that the current regulatory framework in Mongolia does not adequately secure fair trial guarantees and requires structural reform. In particular, enhancing access to legal assistance, improving procedural safeguards, and reconsidering the use of detention sanctions are essential for ensuring the effective realization of the right to appeal.

Keywords: Minor offence procedure, Detention sanction, Right to appeal, Fair trial guarantees, Human rights standards

1. INTRODUCTION

The right to a fair trial, including the right to appeal, constitutes a fundamental guarantee under international human rights law, particularly under Article 14 of the International Covenant on Civil and Political Rights. This right requires not only formal legal recognition but also effective and practical implementation, especially in cases involving deprivation of liberty. In Mongolia, minor offence proceedings represent a significant portion of the justice system and frequently involve the imposition of short-term detention sanctions. Despite the formal legal framework guaranteeing the right to appeal, emerging evidence suggests that its practical realization remains limited. In particular, procedural constraints, limited access to legal assistance, and insufficient awareness of rights may significantly restrict individuals' ability to challenge decisions affecting their liberty. While existing studies have examined aspects of administrative liability and minor offence

procedures in Mongolia, there remains a lack of comprehensive analysis focusing specifically on the effectiveness of the right to appeal in cases involving detention sanctions. This gap is particularly significant given the potential human rights implications associated with the deprivation of liberty in simplified and expedited proceedings.

Against this background, this study aims to examine the practical implementation of the right to appeal in minor offence proceedings in Mongolia, with particular attention to cases involving detention sanctions. By combining empirical data from the 24th report of the National Human Rights Commission of Mongolia with comparative analysis of selected foreign jurisdictions, the study seeks to identify structural limitations and assess the extent to which current practices comply with international human rights standards.

Methods: This study employs a mixed-methods approach combining doctrinal legal analysis, empirical data analysis, and comparative research. The doctrinal component examines the legal framework governing minor offence proceedings and the right to appeal in Mongolia, with particular reference to relevant national legislation and international human rights standards, including the International Covenant on Civil and Political Rights. The empirical component is based on statistical data, observational findings, and interview evidence presented in the 24th report of the National Human Rights Commission of Mongolia. Additional data from judicial and enforcement institutions are used to assess the practical implementation of the right to appeal, including the frequency of appeals and outcomes of appellate review. These data are analyzed to identify patterns and structural limitations affecting access to appellate mechanisms.

In addition, qualitative insights are drawn from interviews and case observations documented in the report, allowing for a more detailed understanding of procedural practices and barriers experienced by individuals subject to detention sanctions. This qualitative evidence complements the statistical analysis by providing contextual explanations of the observed trends. The study also adopts a comparative approach, examining selected foreign jurisdictions, including Germany, Japan, the United States, and Russia. These jurisdictions were selected based on their differing approaches to minor offence regulation and the use of detention sanctions. The comparative analysis aims to identify alternative models and best practices relevant to the Mongolian context. By integrating doctrinal, empirical, and comparative methods, the study seeks to provide a comprehensive assessment of the effectiveness of the right to appeal and its compliance with international human rights standards.

2. THEORETICAL BACKGROUND

2.1 International standards on the right to appeal

The right to appeal, as an integral component of the right to a fair trial, constitutes a fundamental mechanism for correcting judicial errors and ensuring the legality and fairness of court decisions through review by a higher tribunal. In international human rights law, the right to appeal is not regarded merely as an additional procedural opportunity, but rather as an essential safeguard necessary to guarantee effective judicial protection.

Article 14(5) of the International Covenant on Civil and Political Rights (ICCPR) provides that everyone convicted of a criminal offence has the right to have both conviction and sentence reviewed by a higher tribunal according to law [1]. Although the provision explicitly refers to “criminal offences,” the United Nations Human Rights Committee has clarified that its protection extends to sanctions that are criminal in nature, regardless of their classification under domestic law. Consequently, administrative or minor offence sanctions involving deprivation of liberty or punitive characteristics fall within the scope of this guarantee. In other words, where a sanction possesses a criminal character in substance, states are required to ensure access to appellate review irrespective of formal legal categorization.

The Human Rights Committee further elaborated the content of the right to appeal in General Comment No. 32 (2007), emphasizing that the right must be practical and effective rather than merely formal [2]. Appellate review must allow for a genuine examination of both legal and factual issues, including the evaluation of evidence and the proportionality of the imposed sanction. Accordingly, appellate courts should not be limited solely to reviewing

procedural errors but must be empowered to reassess the substantive merits of the case where necessary to ensure justice.

International standards also identify several essential conditions for the effective exercise of the right to appeal. First, individuals must receive clear and understandable information regarding their appellate rights. Judicial authorities are required to explain, in an accessible manner, the availability of appeal, applicable time limits, procedural requirements, and potential legal consequences. Without such information, the right cannot be considered effectively guaranteed. Second, individuals must have a realistic opportunity to lodge an appeal. This includes sufficient time limits, timely delivery of written judicial decisions, and procedures that are not excessively complex or burdensome. Timeframes that are unreasonably short or practically impossible to comply with are regarded, in international practice, as effectively negating the right itself. Third, effective access to legal assistance must be ensured. The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems identify legal aid as a “key safeguard” of the right to a fair trial, emphasizing that the absence of accessible legal assistance may render appellate rights illusory in practice [3].

Taken together, these international instruments demonstrate that the right to appeal must:

1. be guaranteed in law;
2. be practically accessible in real-life circumstances;
3. function as an effective mechanism capable of correcting judicial errors.

Limiting the right to appeal to a purely formal legal provision without ensuring institutional and procedural conditions for its effective exercise is therefore inconsistent with international human rights standards. States bear a positive obligation to establish the necessary legal and institutional safeguards enabling individuals to exercise this right in practice. From a legal perspective, the concept of “international human rights standards” is not uniform in normative force but encompasses both binding treaty obligations and authoritative interpretative instruments. The ICCPR, to which Mongolia is a party, imposes legally binding obligations requiring states to implement the right to appeal within domestic legislation and judicial practice and to provide effective remedies in cases of violation. By contrast, instruments such as General Comment No.32 and related UN principles and guidelines do not create independent treaty obligations but constitute authoritative interpretations clarifying the scope and content of treaty commitments. These interpretative materials serve as benchmarks for assessing whether national legal systems comply with international human rights requirements [3].

Accordingly, international standards on the right to appeal should be understood as a comprehensive framework composed of binding treaty norms and authoritative interpretative guidance that together define both the existence and the practical quality of appellate guarantees. Ensuring access to appellate review is therefore not merely a policy recommendation but a legal obligation arising from international human rights law, requiring states to secure the effective realization of fair trial guarantees in practice.

3. ANALYSIS

3.1 The practical reality of the right to appeal in minor offence proceedings: findings from the 24th report of the national human rights commission

To assess the extent to which the above-mentioned international human rights standards are reflected in practice, it is necessary to examine, on the basis of empirical data, how the right to appeal is implemented within minor offence proceedings in Mongolia. In this regard, the 24th Report of the National Human Rights Commission of Mongolia constitutes one of the few yet significant sources providing insight into the actual functioning of judicial oversight and the level of implementation of appellate rights in minor offence cases [4].

The report presents statistical findings concerning the frequency with which individuals sanctioned for minor offences file appeals, the structure of appellate court decisions, and the practical obstacles encountered in exercising the right to

appeal. These data make it possible to evaluate not only whether appellate rights are formally guaranteed by law, but also the extent to which they are effectively utilized and implemented in practice.

At the national level, appellate courts for criminal cases received a total of 875 minor offence cases in 2024 and resolved 829 of them. This indicates that only 1.9 percent of individuals sanctioned in minor offence proceedings filed appeals. Appeals against decisions imposing detention sanctions were even rarer: within the capital city, only 18 minor offence cases—representing approximately 0.2 percent—were appealed [5].

Table 1. Appeals filed in minor offence cases and appellate outcomes

№	Outcome of Appellate Review	Number of Cases	Percentage (%)
1	Appeal or objection dismissed and the first-instance court decision upheld	383	46.2
2	Court decision modified by mitigating or aggravating the coercive measure imposed	238	28.7
3	Decision annulled in whole or in part and the case remanded for reconsideration	157	18.9
4	Decision annulled in whole or in part and the minor offence case dismissed	51	6.2
Total		829	100

An analysis of Table 1 shows that in 46.2 percent of appealed minor offence cases, the decisions of the first-instance courts were upheld, whereas in the remaining 53.8 percent the decisions were either modified or annulled in whole or in part. This indicates that appellate courts exercise substantive judicial oversight over first-instance decisions and perform an effective corrective function by identifying and remedying errors and procedural shortcomings. Nevertheless, the fact that only 1.9 percent of all individuals sanctioned in minor offence proceedings filed appeals demonstrates that the right to appeal is not widely exercised in practice and remains limited in accessibility. Accordingly, while the structure of appellate outcomes suggests that the right to appeal may function as an effective safeguard in theory, its practical utilization remains insufficient.

Two detention facilities operating under the General Executive Agency of Court Decisions are currently functioning in Ulaanbaatar. Monitoring and evaluation conducted by the National Human Rights Commission at these facilities revealed several issues concerning the implementation of human rights safeguards. In 2024, a total of 7,882 individuals served detention sanctions in these centres. Among them, only 18 individuals filed appeals against detention decisions, including 13 persons sentenced to detention exceeding fourteen days and three persons sentenced to seven days of detention [6].

Among the appeals reviewed by appellate courts, the duration of detention was reduced in five cases (27.7 percent), enforcement of the sanction was postponed in two cases (11.1 percent), and the detention sanction was annulled in two cases (11.1 percent), while enforcement of sanctions in other cases was suspended pending review. The fact that appellate proceedings frequently resulted in outcomes improving the legal position of detained individuals suggests not merely the realization of justice at the appellate level but also inconsistencies in the application of procedural principles at the first-instance stage. In particular, concerns arise regarding proportionality of sanctions, adequacy of reasoning, legal certainty, and stability of judicial decisions, with appellate review effectively operating as the primary mechanism for correcting first-instance deficiencies.

Survey data collected by the Commission from individuals held in detention facilities further highlight structural barriers to the exercise of appellate rights: 92 percent of respondents reported having no legal representation, while 43 percent stated that they were unaware of their right to file an appeal [4].

Table 2. Selected interview cases with individuals held in detention facilities conducted by the national human rights commission

Case Statements (Interview Excerpts)
<p>“...I did not fully understand the decision issued by the first-instance criminal court...”</p> <p>“...the court did not mention that I had the right to file an appeal...”</p> <p>“...since the detention period was short, I thought it would finish before any appeal process could be completed...”</p> <p>“...I had not read the court decision, so I waited five days for the official written version, thinking that only after receiving it could I file an appeal...”</p> <p>“...I heard that filing an appeal could result in additional days being added, so I was afraid to appeal...”</p> <p>“...I did not know how to submit an appeal...”</p> <p>“...I do not understand legal matters well, so I simply accepted the number of days given by the court...”</p> <p>“...I did not understand under which legal provision I was detained; the court mentioned some numbers and the hearing ended...”</p>

The common reasons for failing to file appeals against court decisions imposing detention sanctions are largely associated with limited legal awareness among individuals, insufficient access to legal representation, and the lack of effective guarantees for obtaining legal assistance. In addition, legal ambiguity and practical time constraints significantly influence individuals’ ability to exercise their appellate rights.

Article 8.2(3) of the Law on Minor Offence Procedure provides that a written court decision must be prepared and delivered to the participant, their legal representative, or defence counsel within five working days after the decision has been announced. Paragraph 6 of the same provision stipulates that, if the court decision is disputed, an authorized official or participant may submit a complaint, and a prosecutor may file an objection. Paragraph 7 further specifies that such complaints or objections shall be submitted in accordance with the procedures set out in Articles 38.1 and 38.2 of the Criminal Procedure Law.

Under Article 38.2(1) of the Criminal Procedure Law, a participant may file an appeal with the appellate court within fourteen days from the date of receiving the first-instance court decision. As a result of this regulatory framework, individuals involved in minor offence proceedings commonly interpret the law as allowing appeals only after formal receipt of the written judgment, which in practice delays the initiation of appellate proceedings.

Table 3. Observational findings on minor offence proceedings in district first-instance summary courts

Observational Notes (Excerpts)
<p>“...The District First-Instance Summary Court for Criminal and Civil Cases conducted minor offence hearings in a specially designated room. Prior to the hearing, several defendants were brought in together and their rights and obligations were explained collectively. Thereafter, each individual case was heard and decided separately. Proceedings concerning one defendant typically lasted between 10 and 30 minutes...”</p> <p>“...Defendants were escorted to court by authorized police officers responsible for the respective territorial jurisdiction. Following the issuance of the court decision, these officers were also responsible for transferring individuals to detention facilities...”</p> <p>“...When the court imposed a detention sanction, individuals were not immediately subjected to strict custodial measures. Instead, they were instructed to notify their families, prepare personal belongings, and remain near the court premises or report to the police station at a specified time...”</p> <p>“...Individuals sentenced to detention were typically transported between 5:00 p.m. and 8:00 p.m. by official vehicles to detention centres operated under the General Executive Agency of Court Decisions...”</p>

The above observations indicate [4] that individuals involved in minor offence proceedings are not informed of their rights and obligations in accordance with the procedures prescribed by law. Instead, rights are explained collectively to groups of five to ten individuals. Such practice restricts the right of the accused to submit comments and objections in relation to their own case, as guaranteed under the International Covenant on Civil and Political Rights, the Constitution of Mongolia, and relevant domestic legislation. It further undermines the principle that individuals must be provided with a genuine opportunity to exercise their procedural rights effectively.

The collective explanation of rights, rather than individualized clarification, limits the practical ability of defendants to provide explanations concerning their own cases, to lodge complaints, or to consult with legal counsel. As a result,

the procedural principle of ensuring active participation by the parties is weakened, raising concerns regarding compliance with fair trial guarantees. Statistical data from the capital city further demonstrate the structural impact of short-term detention sanctions. Of the 7,882 detention sanctions imposed in 2024, 5,338 individuals—representing 67.7 percent—were sentenced to detention for periods ranging from seven to ten days [6]. In cases involving a seven-day detention sanction, individuals typically receive the written court decision around the fifth day of detention. By the time they prepare an appeal, draft necessary applications, seek legal advice, and complete procedural steps, the detention period often expires before appellate review can take place. Following release, many individuals are reluctant to pursue further proceedings before the courts, resulting in the appeal being effectively abandoned.

In the context of short-term detention, the time available for receiving the written judgment, preparing an appeal, and obtaining legal assistance is frequently insufficient in practice. Consequently, the right to appeal risks becoming largely formal rather than substantive, thereby weakening the principles of procedural fairness and equality before the law. Based on the statistical data, observational findings, and interview evidence presented in the report, it can be concluded that the right to appeal in minor offence proceedings in Mongolia is not effectively realized in practice, resulting in a systematic weakening of the fundamental guarantees of the right to a fair trial. First, the limited accessibility of the right to appeal is evidenced by the relatively low proportion of sanctioned individuals who file appeals. This suggests that, although formally enshrined in law, the right fails to function as an effective safeguard in practice. At the same time, the inadequate implementation of the right to legal assistance—reflected in the fact that the majority of detained individuals lack legal representation—significantly restricts their ability to defend their interests and undermines the principle of equality of arms.

Furthermore, the lack of sufficient awareness among participants regarding their right to appeal, as well as their limited understanding of judicial decisions and appeal procedures, indicates a failure to ensure the right to be informed. In addition, the expedited and simplified nature of minor offence proceedings, including the practice of collectively explaining rights and obligations, constrains individuals' ability to participate effectively in their own cases, present arguments, and consult with legal counsel. Moreover, the widespread use of short-term detention sanctions effectively negates the practical possibility of exercising the right to appeal, reducing it to a merely formal entitlement. Such conditions are inconsistent with international human rights standards, which require that the right to appeal be practical and effective, particularly in cases involving deprivation of liberty. Taken together, these findings suggest that the current regulatory framework governing the use of detention in minor offence proceedings in Mongolia fails to adequately guarantee key components of the right to a fair trial, including the right to appeal, the right to legal assistance, the right to be informed, and the right to effective participation in proceedings, thereby creating a significant risk of human rights violations.

3.2 International Practice and Trends

The analysis of the domestic situation demonstrates that, although the right to appeal in minor offence proceedings is formally established in law, its practical implementation remains limited. Accordingly, this study examines international practices in order to explore how appellate rights have been effectively implemented in minor offence and simplified procedures in other jurisdictions, with the aim of identifying comparative lessons and approaches that may help address the challenges currently faced in Mongolia.

For this purpose, the study conducts a comparative analysis of the legal frameworks of the Federal Republic of Germany, the Russian Federation, Japan, and the United States. All of these countries are parties to the International Covenant on Civil and Political Rights (ICCPR) and therefore assume international legal obligations to guarantee the right to a fair trial and the right to appeal.

Specifically [7], Germany acceded to the Covenant in 1973, the Russian Federation (through the former Soviet Union) in 1973, Japan in 1979, and the United States in 1992. By becoming parties to the ICCPR, these states undertook the obligation to implement within their domestic legal systems the fair trial guarantees, including appellate review, provided under Article 14 of the Covenant. Consequently, the procedural regulation of minor offences and less serious criminal matters in these jurisdictions—particularly in cases involving sanctions that restrict personal liberty—may be understood as having developed within a shared framework of international treaty obligations. Their respective practices therefore provide a relevant comparative basis for assessing how appellate rights are safeguarded under comparable international legal standards.

3.2.1 Federal Republic of Germany

As a European country belonging to the same civil law legal tradition as Mongolia, the Federal Republic of Germany provides a relevant comparative example for examining the regulation of minor offence proceedings. In Germany, conduct of a minor or regulatory nature is classified as an administrative offence (*Ordnungswidrigkeit*) and is governed by the Act on Administrative Offences [8] (*Gesetz über Ordnungswidrigkeiten, OWiG*). A distinctive feature of the German minor offence system is its principle-based structure, which allows administrative authorities to issue initial decisions while ensuring effective judicial oversight through subsequent court review. The current framework regulating administrative offences was adopted in 1968 as part of a broader reform of criminal law undertaken during the same period. Prior to this reform, unlawful conduct had been divided into three categories: (1) serious crimes, including grave offences such as homicide; (2) offences involving conduct such as bodily injury or theft; and (3) minor infractions, including traffic violations such as running a red light or improper parking. Under the German legal framework, the special provisions governing administrative offences are largely incorporated into sector-specific legislation. The general part of administrative offence law is regulated by the OWiG, while the substantive provisions addressing particular types of violations are contained in various fields of legislation, including tax, customs, land use, construction, social insurance, social welfare, banking, policing, education, and traffic law. Nevertheless, the OWiG itself also contains certain directly codified offences considered exceptional cases. Articles 111–129 of the Act regulate specific categories of violations, including offences against state-imposed regulatory orders (Articles 111–115), offences against public order (Articles 116–123), and offences concerning state symbols or symbols protected by the state (Articles 124–129).

In practice, sectoral legislation and the OWiG operate in a complementary manner, forming an integrated regulatory framework. From a structural perspective, the organization of Germany’s administrative offence law bears similarities to Mongolia’s former 1992 Law on Administrative Liability, particularly in the division between general and special regulatory provisions.

Table 4. Types and scope of sanctions under the German act on administrative offences (OWiG)

Type of Sanction	Description	Legal Provision (OWiG)
Administrative fine	A monetary fine ranging from a minimum of €5 to a maximum of €1,000 may be imposed. The upper limit may be exceeded in cases of repeated violations or where unlawful financial gain has been obtained.	Section 17
Reduction or adjustment of fine payments	Payment deadlines may be extended or instalment payments allowed in consideration of the offender’s economic circumstances.	Section 18
Confiscation of property	Objects used in committing the offence or obtained as a result of the offence may be confiscated, or their monetary value recovered.	Sections 22–25
Corporate fine	Where a legal entity benefits from an offence committed by a managerial officer, fines may be imposed up to €10 million for intentional violations and up to €5 million for negligent violations.	Section 30

An examination of Table 4 (Nyamdorj, *Theoretical foundations of minor offence proceedings*, 2025) [9] indicates that sanctions imposed for administrative offences in Germany are primarily monetary in nature. The amount of the fine is determined flexibly, taking into account the nature and recurrence of the violation as well as the economic circumstances of the offender. Additional regulatory measures—such as payment relief mechanisms, confiscation of property, and special fines imposed on responsible officials—are intended to reduce the risk of repeated violations and to enhance the overall effectiveness of enforcement.

A distinctive feature of Germany’s Act on Administrative Offences (OWiG) is that it incorporates both substantive and procedural legal norms within a single legislative framework. The principal legal principles embodied in the Act may be summarized as follows (Federal Ministry of Justice (Germany)) [10]:

Principle of Mandatory Judicial Review (*Rechtsschutzgarantie*). Although administrative authorities are empowered to impose fines, individuals retain the unconditional right to challenge such decisions before a court. The legal framework guarantees that:

1. the individual has the right to bring the case before a court;

2. the court is authorized to conduct a full review of the case, reassessing both factual and legal aspects; and
 3. administrative decisions cannot remain outside judicial scrutiny, thereby ensuring effective judicial protection.
- Equality of Arms and the Right to Defence. During administrative offence proceedings, individuals are guaranteed comprehensive procedural rights, including:
1. the right to defend themselves;
 2. the right to obtain legal counsel; and
 3. the right to present evidence, provide explanations, and access case materials.

These guarantees are reflected in specific provisions of the OWiG, including Section 55 (right against self-incrimination), Section 60 (right to legal representation), and Section 49 (access to case files). Together, these provisions demonstrate that administrative offence proceedings in Germany are designed not only to ensure efficiency but also to uphold procedural fairness and effective protection of individual rights.

3.2.2 Russian Federation

Following the dissolution of the Soviet Union, the Russian Federation faced the necessity of transforming its legal system into a democratic framework grounded in constitutional principles. An essential component of this reform process involved the comprehensive modernization of administrative offence legislation. The 1984 Code of Administrative Offences of the Russian Soviet Federative Socialist Republic (RSFSR), adopted during the socialist period, reflected a system characterized by the predominance of administrative authority, limited protection of human rights, and insufficient procedural safeguards. Consequently, it no longer conformed to the principles of the rule of law, human rights protection, and judicial guarantees proclaimed by the 1993 Constitution of the Russian Federation.

In response, the Russian Federation adopted the Code of Administrative Offences (KoAP RF) on 30 December 2001, which entered into force on 1 July 2002, thereby comprehensively reforming administrative offence law in accordance with modern legal standards. The Code is distinctive in that it consolidates within a single legislative instrument both the substantive elements of administrative offences—including definitions, constituent elements, and types and levels of liability—and the entire procedural framework governing the investigation and adjudication of such cases. In other words, the KoAP RF represents a characteristic example among post-socialist legal systems of a codified model integrating substantive and procedural regulation of administrative offences within a unified legal framework.

Table 5. Sanctions under the code of administrative offences of the Russian federation (KoAP RF)

Type of Sanction	Description	Legal Provision (KoAP RF)
Warning	The lightest form of administrative sanction, consisting of an official formal warning.	Article 3.4
Administrative fine	A monetary penalty imposed for administrative offences.	Article 3.5
Confiscation of property	Confiscation of items used in committing the offence or obtained as a result of the offence.	Article 3.6
Administrative detention	A sanction restricting personal liberty for up to 15 days; in certain cases, detention may extend up to 30 days.	Article 3.9
Administrative expulsion	Forced removal of a foreign national from the territory of the state.	Article 3.10
Deprivation of special rights	Suspension or revocation of specific rights, such as driving or hunting rights, for a specified period.	Article 3.8

An examination of Table 5 (Nyamdorj, Theoretical foundations of minor offence proceedings, 2025) [9] shows that the administrative offence legislation of the Russian Federation establishes a flexible system of sanctions, varying according to the nature and consequences of the violation. The range of penalties—extending from warnings and monetary fines to confiscation of property, administrative detention, administrative expulsion, and deprivation of special rights—is carefully regulated by law and aims both to terminate unlawful conduct and to prevent repeated violations.

The distinctive significance of the Code of Administrative Offences of the Russian Federation (KoAP RF) lies not only in its structural organization but also in its explicit codification of the fundamental principles governing administrative offence proceedings. The General Part of the Code expressly incorporates principles such as the rule of law, equality before the law and the courts, the presumption of innocence, and the requirement that sanctions be fair and proportionate. These principles are defined as mandatory standards applicable at all stages of administrative

offence adjudication. The Code further guarantees the right to appeal against judicial decisions in administrative offence cases. Key characteristics of the appellate procedure include:

- ✓ relatively short but clearly defined time limits for filing appeals;
- ✓ the authority of higher courts to reassess both the proportionality of sanctions and the evaluation of evidence; and
- ✓ the understanding of appellate review as a mechanism for correcting errors committed at the first-instance level.

Although this framework provides procedural guarantees for the right to appeal, its effectiveness in practice varies depending on factors such as judicial workload and the accessibility of legal representation.

3.2.3 Japan

The legal framework governing the adjudication of administrative offences in Japan reflects the characteristics of the civil law tradition and is structured around two principal pillars: the Administrative Fine System and the procedural framework for imposing administrative sanctions. Unlike jurisdictions that adopt a comprehensive and unified administrative offence code, Japan regulates administrative violations through detailed provisions dispersed across sector-specific legislation.

Administrative authorities impose obligations on individuals through statutes and subordinate administrative regulations. Where an individual fails to comply with such obligations, administrative bodies may adopt two types of measures: compulsory enforcement of obligations (*gimu rikō kyōsei*, 義務履行強制) or the imposition of sanctions for non-compliance (*gimu ihan ni taisuru seisai*, 義務違反に対する制裁) [11]. Sanctions imposed for failure to fulfil legal obligations primarily serve a preventive function, aiming to deter repeated violations. In Japanese legal doctrine, administrative violations are generally classified into two categories: administrative offences subject to criminal punishment (*gyōsei keibatsu*, 行政刑罰) and regulatory or disciplinary sanctions (*chitsujobatsu*, 秩序罰).

Japan's system of administrative sanctions is characterized by an effort to avoid transferring low-risk, everyday regulatory violations into the sphere of criminal liability. The most common forms of sanctions include:

1. Monetary fines, particularly for traffic violations, environmental hygiene offences, and breaches of municipal regulations, typically imposed through standardized fines ranging from approximately 3,000 to 50,000 yen.
2. Suspension or revocation of licenses and special rights in cases involving serious or repeated violations. Examples include suspension of driving privileges for periods ranging from 30 to 180 days, suspension of construction permits depending on the severity of the violation, or revocation of commercial licenses.
3. Administrative confiscation, whereby unlawful goods or assets connected to the violation may be seized in order to prevent repeated unlawful use and ensure effective enforcement.

Where an offender pays the administrative fine within the prescribed period, the case is ordinarily closed without referral to court and does not result in a criminal record, reflecting Japan's rights-oriented approach that combines leniency with practical effectiveness. However, if the individual disputes the administrative decision, judicial review is available, ensuring transparency and accountability in sanctioning procedures.

The right to appeal against judicial decisions is broadly recognized, and appellate courts may reassess not only legal interpretations but also factual circumstances. Key characteristics of Japanese practice include:

- ✓ the provision of detailed reasoning in judicial decisions;
- ✓ clear communication of appellate rights to participants in a manner they can understand; and
- ✓ strict adherence to procedural safeguards at the first-instance stage.

As a result, the right to appeal operates not merely as a formal entitlement but as a practically effective procedural guarantee within the Japanese system.

3.2.4 United States

The United States belongs to the Anglo-American legal tradition and is characterized by a legal system based on federal legislation, state legislation, and judicial precedent. Unlike many civil law jurisdictions, U.S. legislation does not draw a strict doctrinal distinction between criminal offences and administrative violations. Instead, unlawful conduct is generally understood through a broad categorization of criminal wrongdoing, whereby many regulatory

breaches affecting constitutionally protected rights, public order, safety regulations, technological standards, or legal compliance are treated as forms of criminal misconduct [12].

From this perspective, conduct that would typically be classified as an “administrative offence” within civil law systems is often regarded under U.S. law as a violation of legal norms falling within the broader sphere of criminal law. Consequently, such conduct is addressed primarily through criminal justice mechanisms rather than through a separate administrative offence regime. In American criminal law, offences are commonly categorized into four principal groups:

1. Felonies, offences punishable by imprisonment for more than one year;
2. Misdemeanors, offences punishable by imprisonment ranging from approximately fifteen days to one year;
3. Minor criminal offences (delicts or petty offences), punishable by detention or imprisonment of up to fifteen days; and
4. Traffic and regulatory offences (minor offences), involving violations of transportation laws and road traffic regulations.

Because the United States operates under a common law system, legislative codification is less centralized than in continental European systems. Whereas Germany maintains a unified statute such as the OWiG covering administrative offences, regulatory violations in the United States are dispersed across multiple legal sources, including federal legislation such as Title 18 of the United States Code and the Code of Federal Regulations (CFR), as well as state Penal Codes, Vehicle Codes, and local ordinances [9].

Within U.S. legal classification, minor violations are often described as infractions or violations, typically resulting in relatively light sanctions such as fines or warnings. However, the classification of offences and the determination of applicable penalties largely fall within the legislative authority of individual states, which explains the absence of a single nationwide administrative offences statute.

The right to appeal in cases involving misdemeanors and infractions is regulated at both federal and state levels. A general principle is that appellate review must be guaranteed whenever a sanction involves deprivation of liberty. Key characteristics of the U.S. appellate system include:

- ✓ appellate review primarily focused on procedural and legal errors;
- ✓ the continued guarantee of the right to legal counsel at the appellate stage; and
- ✓ the existence in many states of expedited or summary appeal procedures for minor offences.

These mechanisms enable appellate rights to be exercised within relatively short timeframes while maintaining practical effectiveness, thereby providing an institutional framework for timely and meaningful judicial review.

International experience indicates a prevailing trend toward avoiding the use of custodial sanctions for minor and administrative offences and instead promoting more flexible, human rights-compliant alternative measures [13]. In particular, in European countries as well as in Japan and the United States, minor offences are commonly addressed through economic and administrative sanctions such as fines, disqualification from certain rights, suspension of licenses, and confiscation of property [14].

In addition, there is an increasing emphasis on socially oriented alternative sanctions. These include community service, behavioral correction programs, traffic and conduct-related training, and the conditional suspension or deferral of penalties. Such measures aim not only to prevent reoffending but also to facilitate the social reintegration of offenders. Importantly, they enable accountability without imposing direct restrictions on personal liberty, thereby achieving both corrective and preventive outcomes [15].

Furthermore, in some jurisdictions, mechanisms such as diversion and warning or restitution-based approaches are widely used [16]. These mechanisms reduce the burden on courts while allowing minor offences to be resolved in a manner that minimizes interference with individual rights. They are particularly applied in cases involving first-time offenders and offences with minimal harm [17].

Overall, international trends demonstrate a shift in minor offence systems away from punitive, custodial approaches toward proportional, rights-based, and rehabilitative measures. Within this framework, the replacement of detention sanctions with alternative measures has become a dominant policy direction.

4. DISCUSSION

The findings of this study highlight a fundamental disconnect between the formal legal framework and its practical implementation in minor offence proceedings in Mongolia. While the right to appeal is clearly established in law, its effectiveness is significantly undermined by structural and procedural limitations. This discrepancy suggests that the

issue is not merely one of legal design, but of systemic imbalance between procedural efficiency and the protection of fundamental rights.

From an international human rights perspective, the observed limitations raise serious concerns regarding compliance with established standards. The Human Rights Committee has emphasized that the right to appeal must be practical and effective, particularly in cases involving deprivation of liberty. However, the widespread use of short-term detention sanctions in Mongolia, combined with limited access to legal assistance and insufficient awareness of procedural rights, effectively restricts the exercise of this right.

Comparative analysis further reinforces this conclusion. In many jurisdictions, including Germany, Japan, and the United States, custodial sanctions are rarely applied in minor offence cases, or are subject to significantly stronger procedural safeguards. These systems prioritize proportionality and the use of alternative sanctions, thereby reducing the risk of rights violations associated with deprivation of liberty. In contrast, the Mongolian approach places greater reliance on detention without corresponding procedural guarantees, increasing the likelihood that appellate rights remain ineffective in practice.

These findings suggest that the limitations identified in Mongolia are structural rather than incidental. The combination of simplified procedures, time constraints, and inadequate legal support creates conditions in which formal rights exist without meaningful accessibility. As a result, the right to appeal functions more as a nominal guarantee than as an effective mechanism of legal protection.

5. CONCLUSION

This study has demonstrated that, although the right to appeal is formally recognized within the legal framework governing minor offence proceedings in Mongolia, its practical effectiveness remains significantly constrained. The findings reveal a persistent gap between normative legal guarantees and their real-world implementation, particularly in cases involving the imposition of detention sanctions.

The analysis indicates that this gap is not incidental but structural in nature. The combination of simplified and expedited procedures, limited access to legal assistance, and insufficient awareness of procedural rights creates systemic barriers that restrict individuals' ability to effectively exercise their right to appeal. As a result, the right functions largely as a formal entitlement rather than as a meaningful procedural safeguard.

Importantly, the widespread use of short-term detention sanctions further exacerbates these limitations. By significantly reducing the time available to initiate and pursue appellate review, such sanctions effectively undermine the practical accessibility of the right to appeal. This raises serious concerns regarding compliance with international human rights standards, which require that fair trial guarantees, including the right to appeal, be both practical and effective, particularly in situations involving deprivation of liberty.

From a comparative perspective, the findings highlight a clear divergence between Mongolia and prevailing international trends. In many jurisdictions, custodial sanctions are either avoided in minor offence systems or accompanied by robust procedural safeguards. These systems emphasize proportionality, the use of alternative sanctions, and the effective protection of procedural rights. In contrast, the continued reliance on detention within the Mongolian minor offence framework, without corresponding safeguards, increases the risk of systemic violations of fair trial rights.

Overall, this study contributes to the broader understanding of how procedural design and institutional practices can affect the realization of fundamental rights in expedited justice systems. It demonstrates that formal legal guarantees alone are insufficient unless supported by accessible procedures, effective legal assistance, and adequate institutional safeguards. Addressing these structural deficiencies is therefore essential not only for ensuring compliance with international human rights standards but also for strengthening the legitimacy and fairness of the justice system in Mongolia.

In light of these findings, several key reforms are necessary to strengthen human rights guarantees in minor offence proceedings in Mongolia. First, the use of detention sanctions should be critically reassessed and progressively limited, with a view to aligning national practice with international trends. Where deprivation of liberty is imposed, procedural safeguards ensuring the effective exercise of the right to appeal must be strengthened. Second, access to legal assistance should be expanded, particularly for individuals subject to detention. Ensuring the availability of legal aid is essential for enabling individuals to effectively exercise their procedural rights. Third, greater emphasis should be placed on improving awareness of rights and ensuring that procedural information is provided in a clear and accessible manner. This would enhance individuals' ability to participate meaningfully in proceedings. Finally, the effectiveness


of appellate review should be strengthened by ensuring that appellate mechanisms are accessible, timely, and capable of providing substantive review of first-instance decisions.

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AUTHOR'S INTRODUCTION

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