

**CHARACTERIZATION OF THE SPECIFIC FEATURES OF ADMINISTRATIVE  
DETENTION AND ADMINISTRATIVE EXPULSION SANCTIONS***Sherzod Aliyarov**Independent Researcher of the Academy  
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**Abstract:** This paper provides a comprehensive scholarly analysis of the theoretical foundations, enforcement mechanisms, and constitutional dimensions of administrative detention and administrative expulsion. Evaluating these sanctions through the prism of the principle of humanism, the study examines the strict statutory exemptions applicable to socially vulnerable populations and evaluates the long-term legal ramifications of expulsion on an individual's subsequent legal status. A significant focus is placed on the conceptual and procedural differentiation between administrative expulsion, deportation, and readmission—three distinct legal processes whose practical conflation impedes legislative transparency. Furthermore, the paper addresses a critical constitutional-legal lacuna regarding the absolute prohibition of the expulsion of a state's own citizens, emphasizing the need for explicit constitutional alignment with universally recognized norms of international law. To resolve these theoretical and practical challenges, the author advocates for expanding statutory exemptions, introducing alternative sanctions such as monetary fines or social sponsorship for legally resident foreign nationals with minor citizen children, and establishing a strict legal differentiation between judicial expulsion and executive deportation mechanisms.

**Keywords:** Administrative Detention, Administrative Expulsion, Deportation, Readmission, Principle of Humanism, Legal Proportionality, Constitutional Lacunae, Smart Policing, Human Dignity, Stateless Persons, Statutory Exemptions, Rule of Law.

It is well established that administrative sanctions serve as effective legal instruments for maintaining public order within society, preventing administrative offenses, and fostering a culture of legal compliance among citizens. Administrative sanctions, which are inherently less severe than criminal penalties, represent a minimal exercise of the state's punitive power while facilitating necessary educational and deterrent objectives.

According to G. Mullabaeva, administrative sanctions play a pivotal role in ensuring social order and the rule of law, whereby the specific type of sanction is determined based on the nature and gravity of the offense, as well as the individual circumstances of the offender.<sup>1</sup> This is because administrative sanctions exert differentiated legal effects based on the degree of culpability, the gravity of the offense, and the personal characteristics of the offender. Consequently, the determination of the specific circumstances under which each sanction is appropriately applied necessitates rigorous academic justification.

Within contemporary legal systems, administrative detention constitutes one of the most stringent and, concurrently, most contentious coercive measures. The legal essence of this sanction is predicated upon the compulsory restriction of an individual's constitutionally guaranteed right to liberty for a specified duration.

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<sup>1</sup> Mullabayeva G. Ma'muriy jazo va uning turlari // Elektron manba: [https://buxoro-mamuriy.sud.uz/](https://buxoro-mamuriy.sud.uz/(murojaat_vaqti:28.12.2025)) (murojaat vaqti: 28.12.2025).

Legal jurisprudence reflects diverse approaches regarding the nature of this measure. While some researchers, invoking its extreme severity, seek to equate it with criminal penalties, others evaluate it as a highly potent and necessary deterrent instrument for ensuring public safety.

In academic reality, the primary objective of this sanction extends beyond the mere temporary isolation of the offender from society; rather, it aims to foster future legally compliant behavior through the execution of legal and preventative corrective measures.

The most fundamental and central characteristic of administrative detention is that it is imposed exclusively through judicial proceedings. This rule is not arbitrary; rather, it constitutes an essential legal axiom shaped by the progressive evolution of the legal system. This is predicated on the principle that the restriction of an individual's supreme constitutional rights falls directly and solely within the purview of the judiciary.<sup>2</sup> In support of this scholarly approach, it must be emphasized that withholding such authority from executive branch agencies—specifically, law enforcement authorities—serves as a vital legal safeguard protecting human rights against arbitrary restrictions. This is because only an independent and impartial judicial instance possesses the capacity to objectively evaluate both the gravity of the committed offense and the individual circumstances of the offender.

Currently, debates within scholarly circles persist regarding whether to retain or entirely abolish the sanction of administrative detention. Some legal scholars, invoking its low reformatory efficacy and failure to reduce recidivism, propose either expunging this sanction from the administrative liability system or transferring it entirely into the domain of criminal law. However, the wholesale elimination of this measure from legal practice remains unwarranted. On the contrary, this type of sanction has not fully depleted its deterrent value and efficacy in preventing new offenses and rehabilitating the offender.<sup>3</sup>

In our view, it is expedient to retain the sanction of administrative detention as a primary deterrent for chronic offenders who systematically disrupt public order and upon whom financial penalties, such as fines, exert no corrective effect. The primary function of this sanction is not retributive; rather, it seeks to compulsorily reform the offender's diminished legal consciousness and induce legal compliance.

The significance of the institution of detention within the system of administrative sanctions is, first and foremost, elucidated by its prophylactic objectives. Under the legislation in force, the primary purpose of administrative sanctions is the preventative function, namely the prevention of new offenses. This mechanism encompasses both restraining the individual offender (specific deterrence) and deterring other members of society (general deterrence) from engaging in unlawful conduct.<sup>4</sup>

Consequently, the inherent severity of this measure carries a significant deterrent weight for society. The temporary detachment of an individual from their customary lifestyle, combined with the restriction of their liberty, functions as a potent psychological and legal barrier against offenses such as breaches of public order, petty hooliganism, or non-compliance with the lawful demands of an authority figure.

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<sup>2</sup> Стахов А.И., Стажила М.Ю. Административный арест как судебное административное наказание // Пробелы в российском законодательстве. Юридический журнал. – 2024. – Т. 17. – №. 5. – С. 31-36.

<sup>3</sup> Равнюшкин А.В. Административный арест как вид административного наказания через призму концепции нового КоАП РФ // Ученые записки Крымского федерального университета имени В.И. Вернадского. Юридические науки. – 2019. – Т. 5. – №. 4. – С. 364-370.

<sup>4</sup> Тимошенко И.В. Административный арест в общей системе административных наказаний // Вестник Таганрогского института управления и экономики. – 2015. – № 2 (22). – С. 43-47.

Turning to the empirical dimensions of the issue, several contentious matters arise during the enforcement of administrative detention. Accordingly, a clear necessity emerges to reform the mechanisms for the admission and detention of administrative detainees within the law enforcement apparatus, strictly aligning them with the principle of "serving the public interest." In this process, establishing the respect for and preservation of human dignity as the paramount priority—alongside the preservation of public safety—is rigorously justified from a scholarly perspective.<sup>5</sup>

It must be underscored that the conditions of isolation do not envision the degradation of human dignity or the infliction of harm to individual health. On the contrary, this process must serve exclusively to exert a reformatory influence by restricting the offender's freedom of movement.

The degree to which conditions within special detention centers comply with international human rights standards constitutes a primary benchmark reflecting the adherence of the law enforcement system to democratic principles.

Contemporary research addressing the challenges within the enforcement of this sanction and the pathways toward their resolution provides a comprehensive analysis of the systemic deficiencies. Specifically, as practical solutions to these issues, the integration of innovative digital technologies into the sector and the modernization of the administrative management framework are envisaged. Concurrently, a series of pertinent proposals regarding the professional capacity building of responsible personnel are being advanced.<sup>6</sup>

The principle of humanism in the imposition of administrative detention is manifested in the strict statutory definition of categories of persons exempted from this measure. It is well established that this form of sanction, which is typically imposed for a duration of three to fifteen days (and up to thirty days under a state of emergency), shall not be applied to pregnant women, women with children under three years of age, individuals raising children under fourteen years of age as single parents, minors under the age of eighteen, as well as persons with Group I and Group II disabilities.

The establishment of such a differentiated approach by the legislature confirms that the true objective of state coercive measures is not the infliction of physical suffering, but rather rehabilitation based on justice and humanism. These statutory exemptions are significant primarily because they aim to support socially vulnerable populations and ensure legal proportionality within the institutions of liability.

Within the national legal system, the institution of administrative deportation of foreign nationals and stateless persons from the territory of the country is distinguished by its complex legal nature. Pursuant to the provisions of the Code of Administrative Responsibility, this measure functions not only as a specific type of sanction prescribed for an offense, but also as an essential coercive instrument intended to ensure state security and migratory stability.

The specific nature of this sanction lies in the fact that it is applied exclusively to specific subjects, namely foreign nationals and stateless persons. Concurrently, the essence of this measure is not limited to the mere expulsion of an individual across the state border. This process, in turn, constitutes a complex legal procedure that entails long-term restrictions impacting the offender's future legal status, such as the temporary restriction of their right of re-entry into the country.

<sup>5</sup> Sharipov S.S., Xudoysshukurov F.T. Ichki ishlar organlarining ma'muriy qamoqqa olingan shaxslarni qabul qilish va saqlash faoliyatini samarali tashkil etishga qaratilgan islohotlarni amalga oshirish yo'nalishlari // "Ёш олимлар ахборотномаси" – «Вестник молодых ученых». – 2025. – Т. 1. – С. 163-169.

<sup>6</sup> Nematjonov Sh.N. Ma'muriy qamoqqa olish tarzidagi jazoning ijrosini ta'minlash // Ijtimoiy fanlarda innovatsiya onlayn ilmiy jurnali. – 2025. – Jild 5, Nashr 12. – B. 13-17.

Within scholarly circles, diverse approaches exist regarding the terminological foundations of this institution, particularly its correlation with related concepts such as "deportation" and "readmission." Notably, K.I. Chernyshev, in his research, emphasizes that the practical conflation of the concepts of administrative expulsion and deportation impedes the formulation of transparent migration legislation. He concludes that it is expedient to maintain a strict legal differentiation between these mechanisms in practice.<sup>7</sup>

This scholarly approach is logically complemented by the research of A.S. Kostyra. According to the author, the institutions of expulsion, deportation, and readmission are analogous in their objectives; namely, they all serve the purpose of protecting the state territory from illegal migration (or purging it of undocumented migrants). Nevertheless, the underlying grounds for application, procedural frameworks, and consequent legal ramifications of these three distinct legal processes diverge fundamentally.<sup>8</sup>

While acknowledging the validity of these theoretical perspectives advanced by foreign researchers, we contend that a more profound and systemic approach to this issue is required within our national legal system. Under the regulatory framework in force, administrative expulsion constitutes a measure of legal liability imposed directly by judicial instances. Conversely, deportation possesses a predominantly administrative-executive character, signifying a procedure executed by the decision of competent executive authorities upon the emergence of specific grounds, such as the expiration of a visa duration. Consequently, it is expedient to improve the statutory provisions defining the legal and procedural nature of these two concepts within national legislation and to strictly differentiate between them in legal practice.

In examining the characteristics of administrative expulsion as a specific type of sanction, A.A. Panfilov focuses explicitly on the legal ramifications of this measure. The author notes that this sanction significantly impacts the future legal status of the individual. In particular, this measure is directly linked to the imposition of stringent restrictions or prohibitions regarding subsequent naturalization, as well as the adjudication of temporary or permanent residence permits.<sup>9</sup>

Indeed, the legal effect of this measure does not terminate upon the mere expulsion of the individual across the state border. Its primary ramification is manifested in the deprivation of the offender's right to re-enter the territory of the given state for a specified duration.

Within national jurisprudence, this matter has been comprehensively examined by Sh.Kh. Kushbokov and J.B. Juraev. In their research, these authors focused explicitly on the legal liability arising from the violation of the rules of stay by foreign nationals and stateless persons within the territory of Uzbekistan. Furthermore, they provided a detailed analysis of statutory exemptions in applying the measure of administrative expulsion to individuals possessing certain privileges or those subject to maintenance obligations.<sup>10</sup>

This approach advanced by legal scholars carries significant empirical relevance. In law enforcement practice, the measure of administrative expulsion must not serve as a mechanism for evading civil or family law obligations, such as child support maintenance or debt liquidation.

Extending these conclusions logically, we contend that the scope of such statutory exemptions should be further expanded and categorized. Specifically, the principle of humanism must remain paramount in the adjudication of this sanction. Introducing alternative measures—such as monetary fines or the institution of social sponsorship—for foreign nationals who have

<sup>7</sup> Чернышёв К.И. Административное выдворение и депортация: юридическая природа и целевая направленность санкций // Наука. Общество. Государство. – 2015. – Т. 3. – №. 4. – С. 53-60.

<sup>8</sup> Костыря А.С. Административное выдворение, депортация и реадмиссия: сравнительно-правовой анализ // Вестник Белгородского юридического института МВД России. – 2017. – №. 2. – С. 46-49.

<sup>9</sup> Панфилов А.А. Административное выдворение как специальный вид административного наказания // Правопорядок: история, теория, практика. – 2020. – №. 2 (25). – С. 39-43.

<sup>10</sup> Qushboqov Sh.X., Jo'rayev J.B. Chet el fuqarolari va fuqaroligi bo'lmagan shaxslarning ma'muriy javobgarlik masalasi // Central Asian Journal of Academic Research – 2026. – Vol. 4, Issue 02. – Part 2. – B. 105–109.

minor children holding citizenship of the Republic of Uzbekistan, or who have legally resided in the country for an extended period while contributing substantially to the national economy, aligns fully with the principles of the rule of law.

Another noteworthy and contentious dimension of this issue pertains to the state's positioning regarding the expulsion of its own citizens and its underlying constitutional-legal foundations. Professor J.Kh. Yuldashev has focused explicitly on this problem. The scholar notes that Article 603 of the Criminal Procedure Code strictly prohibits the extradition of a citizen of Uzbekistan to a foreign state. Nevertheless, the absence of a direct and explicit provision at the national constitutional level prohibiting the expulsion or surrender of a citizen to another state theoretically engenders certain legal lacunae.<sup>11</sup>

In supporting this scholarly conclusion, it must be emphasized that, pursuant to the universally recognized norms of international law, no sovereign state may deport or administratively expel its own citizens. This norm strictly validates the legal principle that the measure of administrative expulsion applies exclusively to foreign nationals and stateless persons.

The aforementioned analysis demonstrates that administrative sanctions constitute essential legal mechanisms that preserve social equilibrium in society and rehabilitate the offender. The efficacy of these measures is directly contingent, first and foremost, upon the proportionality of the imposed sanction to the gravity of the committed offense, as well as the strict enforcement of the principle of justice.

From this perspective, adapting the existing administrative liability system to contemporary requirements remains an objective necessity. Specifically, it is imperative to widely integrate innovative digital technologies, such as "Smart Policing," into the enforcement and oversight processes, while concurrently eliminating procedural lacunae within law enforcement practice.

Concurrently, we contend that it is expedient to introduce alternative forms of statutory enforcement. Such systemic reforms will serve to further solidify the role of the institution of administrative coercion as a genuinely humanistic and democratic legal instrument.

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<sup>11</sup> Yuldashev Dj.X. O'zbekiston Respublikasi fuqarosini mamlakat hududidan chiqarib yuborilishini yoki boshqa davlatga berilishini ta'qiqlovchi milliy normalar tahlili // Eurasian Journal of Law, Finance and Applied Sciences. — 2023. — Volume 3, Issue 4. — B. 7–9.